

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP-11111-2019 (O&M)
Date of decision: 26.07.2024

Sonu

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Jasbir Mor, Advocate for the petitioner

Ms. Vibha Tewari, AAG, Haryana

AMAN CHAUDHARY, J.

1. Aggrieved by the non-consideration of his candidature under the Economically Backward Persons in General (EBPG) Category, the prayer of the petitioner is for directions for the same, he being the holder of the requisite certificate.
2. Learned counsel submitted that the petitioner, being desirous of appointment to the post of Forester (Male) in EBPG Category, had applied in pursuance to Advertisement No. 12/2015, however certificate of EBPG was issued after the last date due to pending litigation regarding the same, therefore it could not be appended, thus he was constrained to apply under the General. He however, produced the same during scrutiny of documents, but his Roll No. did not figure in the list of candidates called for the interview, as he was wrongly considered under General category.
3. Opposing the above, learned State counsel contended that a candidate can only be assessed under the category he had applied in and cannot be permitted to subsequently change it. He, having scored less marks than the last

selected one in the General category, was rightly not called for interview.

4. Heard learned counsel on either side.

5. Notably, the petitioner on 03.12.2015 had submitted a 'self declaration' along with 'Citizen Registration Form' for issuance of "Economy Backward Class Certificate", whereupon the concerned Patwari on 09.12.2015 certified that the annual income of his family was less than Rs. 2,50,000/-.

6. To better adjudicate the matter, it would be apposite to traverse through the chequered history of the introduction of the Economic Backward Persons in General Category in the State of Haryana, for which notifications dated 23.01.2013 and 27.09.2013 had been issued, providing 10% reservation in jobs under Government/Government Undertakings and Local Bodies as well as in educational institutions for the said class. These came to be challenged before this Court in various writ petitions, including CWP-18514-2016, wherein vide order dated 22.09.2016, their operation as regards admission in educational institutes, was stayed. However, vide letter dated 28.10.2016, the State made the said order applicable to recruitment as well, which, though was subsequently clarified on 18.11.2016, Annexure P-20, to be only regards admissions.

7. As is evident from the judgment dated 22.12.2017 passed in a connected writ petition, bearing **CWP-29341-2017**, which was disposed of, by noticing the statement of the State counsel that the instructions had been issued on 07.06.2017 by the Chief secretary to issue EBPB category certificates, with the directions to provisionally interview the petitioner therein, subject to production of a valid certificate. It is only thereafter that on 15.06.2017, the certificate was issued to the present petitioner.

8. Under the orders of this Court dated 30.04.2019, the petitioner was provisionally interviewed under the EBPB category and his result was ordered to

be kept in a sealed cover, which when opened, as recorded in order dated 06.02.2023, he was found to have scored a total of 147 marks, whilst the cut off for EBPG category mentioned therein was 141 and that of waiting, 137.

9. The factum of petitioner having applied for the certificate well before the last date of application form, which was 22.03.2016 and the pending litigation regarding the reservation, not being in dispute; he produced the same on 30.01.2019, during the scrutiny process, thus the benefit of consideration must enure to him, the reasons for it not being uploaded along with the application form were beyond his control.

10. On having given a thoughtful consideration to the overall conspectus, this Court, in the interest of justice, deems it appropriate to dispose of this case, with a direction to the respondents to consider the petitioner for appointment, subject to verification of the certificate as furnished by him at the time of scrutiny, contingent to he falling within merit. Needful be done within a period of two months, from when a certified copy of this judgment is received by them.

11. Pending applications, if any, shall be disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

26.07.2024
Hemant

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No