

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

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CWP No.12334 of 2022 (O & M)

Date of Decision : 13.3.2024

*Kuldeep**..... Petitioner**versus**The Haryana Staff Selection Commission and others* *..... Respondents***CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. Vishal Nehra, Advocate, for the petitioner

Mr. Suneel Ranga, DAG, Haryana

Mr. Sumit Sangwan, Advocate, for respondent no.3

TRIBHUVAN DAHIYA J. (ORAL):

The petition has been filed, *inter alia*, seeking a writ of *mandamus* directing the respondents to select and appoint the petitioner on the post of Post Graduate Teacher (PGT)-History.

2. Learned counsel for the petitioner contends that in response to advertisement no.4 of 2015, dated 28.6.2015, Annexure P-1, the petitioner applied for the post of PGT-History under Ex-servicemen (ESM) general category. He cleared the written test and was interviewed also. The result of selection was declared on 9.6.2019, it was withheld only for a few candidates due to pending litigation, and for them it was declared on 28.1.2022. The petitioner was not selected. He sought information under the Right to Information Act, 2005, Annexure P-7, and came to know that he had secured one hundred twenty two marks in the selection, equal to those of the third respondent. The petitioner being elder in age, born on

3.3.1979, was entitled to be appointed in place of the third respondent, born on 1.1.1987.

3. Learned counsel for the respondents contend that the petition itself is not maintainable, as it has been filed after a delay of about three years from the date of declaration of result, i.e, 9.6.2019, pursuant to which the third respondent joined service on 20.8.2019 itself. Besides, there is no challenge to her appointment. Without challenging the same, the petitioner is not entitled to seek a writ of *mandamus* for appointment as PGT-History. It has further been contended that the third respondent was selected being female, as she was entitled to thirty-three per cent reservation meant for female candidates. Note 4 of the advertisement in that regard reads as under:

33% posts in each category i.e. General, Scheduled Caste (SC), Backward Class (A) and Backward Class (B), SBC, EBP GC and Ex-serviceman (ESM) shall be reserved for women and this reservation shall be horizontal.

Therefore, despite securing equal marks as those of the petitioner, she had a right to be appointed under the category because of the reservation. There is no illegality or irregularity about it.

4. Heard.

5. It is apparent on record that there is delay of about three years in filing the petition. It is also liable to be dismissed on account of not impugning the selection and appointment of the third respondent, and in its absence no effective relief can be granted to the petitioner. Besides, it is not disputed that the third respondent was entitled to be appointed on the basis of thirty-three per cent reservation meant for female candidates.

6. In view thereof, there is no merit in the petition, and it stands

dismissed.

7. Pending miscellaneous application(s), if any, stands disposed of accordingly.

(TRIBHUVAN DAHIYA)
JUDGE

13.3.2024
Ashwani

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