



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 228)

(1) CWP No. 23079 of 2021
Date of Decision : 29.05.2024
Vikas ...Petitioner

Versus

The State of Haryana and others ...Respondents

(2) CWP No. 13304 of 2020
Mohan ...Petitioner

Versus

State of Haryana and another ...Respondents

(3) CWP-9405-2024
Timsi Palia .. Petitioner

Versus

State of Haryana and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ravinder Malik (Ravi), Advocate for the petitioner
in CWP-23079-2021.

Mr. Neeraj Januha, Advocate for the petitioner
in CWP-13304-2020.

Mr. Edward Augustin George, Advocate for the petitioner
in CWP-9405-2024.

Mr. Baldev Raj Mahajan, Advocate General, Haryana with
Ms. Shruti Jain Goyal, Sr. DAG, Haryana.



Mr. Hitesh Pandit, Advocate,
Ms. Nikita Goel, Advocate and
Mr. Divyansh Shukla, Advocate for the respondent-Nigam.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioner(s) is that despite the fact that a statement was given by the learned Advocate General, Haryana in LPA No. 2310 of 2017 titled as ***Shikha and others Vs. State of Haryana***, that against 447 posts of Upper Divisional Clerk (UDC) advertised, 429 candidates have been found eligible and these candidates will be considered for appointment as per the qualification prescribed in the statutory rules governing the service in UHBVNL and DHBVNL, still the petitioner(s) have not been given appointment on the ground that they are competing in the General Category and keeping in view the number of posts of Upper Divisional Clerk to be filled in General Category and the marks secured by the last candidate selected in the General Category, petitioner(s) have not been able to make the cut so as to be selected against the advertised posts.

2. Learned counsel for the petitioner(s) submits that the respondent-department had sent two separate requisitions for making appointment to the post of Upper Divisional Clerk in UHBVNL and DHBVNL. As per the said separate requisitions, which were sent, 230 posts were to be filled in DHBVNL and 217 posts were to be filled in



UHBVNL. Keeping in view the selection made, the candidates who remained unsuccessful against the advertised posts, approached this Court by filing bunch of petitions challenging the selection process for the post in question. The learned Single Judge passed an order dated 21.11.2017 decides the issue.

3. Against the judgment of the learned Single Judge dated 21.11.2017, LPAs were filed, one being LPA No. 2310 of 2017. While hearing of the said LPA, a statement was made by learned Advocate General, Haryana that against total 447 posts of Upper Divisional Clerk advertised, only 429 candidates have been found eligible and these eligible candidates will be considered for appointment to the post in question as per the qualification prescribed in the statutory rules governing the service in UHVBNL and DHBVNL. The said proposition was accepted by all and the judgment of the learned Single Judge dated 21.11.2017 was accordingly modified to consider the eligible candidates in accordance with law for appointment to the post in question keeping in view the qualification prescribed in the statutory rules.

4. Thereafter, the respondents started the process to fill up the advertised posts from the candidates who were found eligible for the post in question and the grievance of the petitioner(s) in the present petitions is that despite the fact that the posts were lying vacant, still they have not been selected for the post in question, which is causing prejudice to them.



5. Learned counsel for the petitioner(s) argues that once, the total number of posts were 447 and the candidates, who were found eligible were 429, the petitioner(s) being within the candidates who were treated eligible, should have been appointed to the post in question and declining of the benefit of appointment to the petitioner(s) by the respondents is arbitrary and illegal and contrary to the undertaking given before the Division Bench of this Court by the learned Advocate General, Haryana.

6. Learned counsel for the respondents submits that the contention which is being raised by the petitioner(s) is that as per the undertaking given by the learned Advocate General, Haryana, which has been recorded while passing the order dated 04.12.2018 in LPA No. 2310 of 2017 that all 429 candidates were to be appointed is misreading of the said undertaking. Learned State counsel further submits that only undertaking was given that all the candidates who have been treated eligible, will be appointed in accordance with law, which means that the candidates will be appointed keeping in view the number of posts advertised in the different categories as per the merit obtained by the qualified candidates qua the said posts in the respective category.

7. Learned counsel for the respondents further submits that the interpretation of the undertaking given by the learned Advocate General that all 429 candidates who were being treated as qualified are to be appointed is incorrect and the same was never the intention.



8. Learned counsel for the respondents further submits that the petitioner(s) competed for the post in question in the General Category and 128 posts in the General Category have already been filled up and the last selected candidate, who has been appointed in the General Category has secured 118 marks and the last selected candidate, who has been put in the General waiting list, has secured 110 marks, whereas, the petitioner(s) have secured less marks than 110 hence, the petitioner(s) have rightly not been appointed to the post in question.

9. I have heard learned counsel for the parties and have gone through the record with their able assistance.

10. It may be noticed that in the advertisement in question, under Category No. 2, 447 posts of Upper Divisional Clerk under various categories such as General, Schedule Caste, BC-A, BC-B, Ex-servicemen, Outstanding Sports Person etc. were advertised. The petitioner(s) were competing against 128 posts reserved in the General Category. It may be further noticed that the claim of the petitioner(s) can only be considered in the category in which they applied for and were competing for the post in question. Keeping in view the said factual position, the prayer of the petitioner(s) and the contention raised is to be considered.

11. The contention of the petitioner(s) raised before this Court in the present petitions is that they are entitled for appointment irrespective of the Category in which they were competing keeping in view the



statement of learned Advocate General, Haryana as recorded by the Division Bench in the order dated 04.12.2018 passed in LPA No. 2310 of 2017. The said contention of the learned counsel for the petitioner(s) is not correct.

12. The only statement given before the Court is that there are 429 candidates, who have been found eligible and they will be considered for appointment keeping in view the rules governing the service. It goes without saying that while filling up the posts, the same has to be filled category wise keeping in view the number of posts reserved to be filled in a particular category and the merit obtained by the candidates in the category in which he/she is competing. The petitioner(s) who are competing in the General Category can only claim appointment against 128 posts, which were to be filled from the General Category.

13. Once, a statement has been made that all 128 posts in the General Category have been filled, which are the posts out of the total 447 posts and the petitioner(s) have not secured enough marks either to be in the merit list or to be in the waiting list, no grievance can be raised by the petitioner(s).

14. In case, the claim of the petitioner(s) that 429 candidates are to be straightaway appointed against 447 posts as per the undertaking given by the learned Advocate General, Haryana, is to be accepted, the same will violate the terms and conditions of the advertisement also. As per the advertisement, the posts have been reserved for the various



categories and no General Category candidate can be appointed against a vacant post in the other reserved category.

15. Once, a General Category candidate cannot be appointed against the reserved category post, the claim of the petitioner(s) that they are to be considered for appointment irrespective of the Category in which they were competing as the total advertised posts were more and the eligible candidates were less, cannot be accepted. The candidates, who are eligible, are to be given appointment in their own category keeping in view the number of posts advertised in a particular category subject to the eligibility as envisaged under the rules.

16. Hence, as the respondents have already stated before this Court that all the 128 posts of General Category have already been filled up and the petitioner(s) could not make the cut keeping in view the less merit, no ground is made out for the grant of relief as being claimed by the petitioner(s) in the present writ petitions.

17. At this stage, learned counsel for the petitioner(s) submits that no list of the candidates appointed in the General Category has been supplied to them.

18. It may be noticed that in case, any such representation is received from the petitioner(s), list of the candidates who have been selected and appointed in the General Category be supplied to the petitioner(s) within a period of 10 days of the receipt of any such claim.

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19. Keeping in view the above, no ground is made out for the grant of any benefit as being claimed in the present petition.

20. Dismissed.

A photocopy of this order be placed on the file of connected cases.

May 29, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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