

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

237

CWP-15908-2022 (O&M)
Decided on :25.01.2024

Kiranjeet Kaur

.....Petitioner

Versus

State Of Haryana And Another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Vijay Dahiya, Advocate
for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the grievance of the petitioner is that the marks of the petitioner has wrongly been evaluated by the respondents while competing for the post of Staff Nurse, as advertised vide advertisement dated 15/2019 dated 07.04.2019, copy of which has been appended as Annexure P-1.

Learned counsel for the petitioner argues that the petitioner competed for the post of staff nurse in pursuance to the advertisement No. 15/2019, being fully eligible in the category Nos. 10 and 19 and secured 41 marks in the written examination however, five marks under the Socio Economic Criteria being a bazigar, has not been granted to the petitioner.

Learned counsel for the petitioner submits that in fact in case the claim of the petitioner would have rightly been considered, she would have secured 46 marks (41 marks in the written examination + 05 marks for

socio economic criteria) while competing in the reserved category of the Scheduled Caste and she would have been in the zone of selected candidates qua the category No. 10 and qua the category No. 19 as the petitioner would have been in the waiting list.

Upon notice of motion, the respondents have filed the reply wherein the respondents have stated that keeping in view the language of the criteria under which five marks were to be granted, the petitioner is not entitled for 05 marks under Socio-Economic Criteria so as to raise her score from 41 marks to 46 marks. Learned counsel for the respondents submits that the said five marks are only to be granted in case, the candidate belongs to *Vimukt Jatis, Tapriwas Jatis or Nomadic Tribe of State of Haryana* which caste is neither covered in the category of Scheduled Caste or Backward Caste whereas, the Caste of petitioner is very much covered in the reserved category of Scheduled Caste, which is clear from the fact that the petitioner is competing for the post in question in the reserved category of the Scheduled Caste, hence, the petitioner has not been given five marks under Socio Economic Category as being claimed by her in the present petition.

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

The Clause of the Socio-Economic Criteria under which the petitioner is claiming five marks is as under:

“C. if the applicant belongs to such a denotified tribe (Vimukt Jatis and Tapriwas Jatis) or Nomadic Tribe of State of Haryana which is neither a scheduled Caste nor a Backward Class.”

A bare perusal of the above would show that to a candidate belonging to the *Vimukt Jatis and Tapriwas Jatis or Nomadic Tribe of State of Haryana*, whose caste is not covered either under the Scheduled Caste or the Backward Caste, are entitled for the five marks under the Socio Economic Criteria. In the present case, though the petitioner belongs to *Tapriwas Jatis* but as her Caste is also included in the Scheduled Caste category, which is a conceded fact as the petitioner competed for the post in question under the scheduled caste category hence, the petitioner is not entitled for five marks under Socio Economic Criteria.

Learned counsel for the petitioner has not been able to rebut the fact that keeping in view the criteria envisaged, once, the Caste of the petitioner is included in the category of Scheduled Caste, how, the petitioner can claim five marks under Socio Economic Criteria as being claimed in the present petition.

At this stage, learned counsel for the petitioner submits that certain candidates similarly situated as petitioner have been granted the same benefit which is being claimed by the petitioner in the present petition.

It may be noticed that even if, some candidates have been granted the benefit of five marks, the same cannot be made a ground for the reason that *prima facie* keeping in view the criteria envisaged for the grant of five marks under Socio economic criteria, any candidate whose Caste is included in the Scheduled Caste or the Backward Caste list despite being *Vimukt Jatis, Tapriwas Jatis or Nomadic Tribe of State of Haryana* is not entitled for five marks under Socio Economic Criteria and in case, the State has granted the same to any candidate, the said action on the part of the State is contrary to the prescribed criteria.

It is a settled principle of law that there is no negative

discrimination as the candidate has to stand on his/ her own legs to claim the benefit and not to rely upon any incorrect benefit extended to any other candidate.

Keeping in view the facts and circumstances of the present case recorded herein above, no ground is made out for interference in the present case, hence the present petition stands **dismissed**.

Pending miscellaneous application, if any, shall also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

25.01.2024
Riya

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*