



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

CWP-17942-2022

Date of decision: 31.05.2024

VINIT

.....Petitioner

Versus

STATE OF HARYANA AND ANR.

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Abhishekh Singla, Advocate with
Ms. Niharika Mittal, Advocates for the petitioner.

Ms. Shruti Jain, Sr. DAG Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that the petitioner has not been granted the benefit of socio-economic criteria while considering the candidature of the petitioner for the post of Clerk as advertised by Advertisement No.5 of 2019, copy of which is appended as Annexure P-1.

2. Learned counsel for the petitioner submits that the petitioner has completed all the requisite qualifications for the selection/appointment as Clerk and has appeared in the written examination and he had secured 61 marks while competing in the category of Economically Weaker Section. The petitioner should have been given 5 marks qua the socio-economic criteria and the eligibility to be called for scrutiny of document should have been undertaken by treating that the petitioner has secured 66 marks instead of 61 marks. Hence, the claim of the petitioner has not been considered in a manner required keeping in view the terms and



conditions of the advertisement hence, the respondents are liable to re-consider the claim of the petitioner having obtained 66 marks rather than considering the claim of the petitioner having 61 marks.

3. The further prayer of the petitioner is that certain candidates who were having lesser marks in the written examination have been called for scrutiny in the EWS category itself hence, the respondents were under obligation to call the petitioner for the scrutiny and thereafter give the 5 marks so as to treat the petitioner having 66 marks.

4. Upon notice of motion, learned State counsel has filed reply. In reply, respondents have mentioned that there are certain posts which were reserved for the candidates with physical disability, details of which have already been given in the advertisement itself and the candidate having physical disability belonging to any of the category, were treated separately in the concerned sub-category and therefore, the candidates who have applied in any of the main category, but were also suffering physical disability, were initially considered in the sub-categories and in case not found suitable in the sub-category, the candidature was again transferred to the main category and their candidature was only considered in the main category keeping in view the marks obtained by the last candidate to be called for scrutiny in the main category.

5. Learned counsel for the respondents submits that no one has been given marks for socio-economic criteria prior to being called for scrutiny as it was already decided by the commission that only the candidate who



appeared for scrutiny after clearing the mentioned cut-off marks will be given the said benefit.

6. I have heard learned counsel for the parties and have gone through the records of the case at length.

7. The first question which has been raised by the learned counsel for the petitioner is that once the total marks for selection process is 100, the petitioner has only been evaluated qua 90 and not 100 as the petitioner has not been allowed to participate in the scrutiny so as to get the benefit of 10 marks under the socio-economic criteria. The respondents produced affidavit on record to say that the selection process, which has been uniformly adopted for all the candidates, who were, competing, prescribed that the marks for the socio-economic criteria will not only be given after the candidate clears the cut-off category/sub-category in which he/she is competing and not prior to the said stage of the selection process.

8. Once uniform criteria has been applied qua all candidates competing, the petitioner cannot raise any grievance so as to claim that socio-economic marks under the socio-economic category should be extended to him while adjudging the cut-off marks to be called for scrutiny of documents. The petitioner cannot be treated differently than the other competing candidates. Once a particular criteria has been framed and the decision has been taken at the highest level of the Commission as to how the marks for the socio economic criteria has to be given, the same has to be respected and cannot be changed on the



asking of the petitioner so as to treat him differently than the other candidates who are competing for the same post and are also similarly situated.

9. With regard to the claim of the petitioner that certain candidates who had competed in the EWS Category and had been called for scrutiny even though they have less marks than the petitioner in the written examination which is arbitrary. Qua the said argument, it may be noticed that respondents have submitted on record an affidavit that the candidates who has competed in the particular category but were also claiming further reservation in any sub-category i.e. PWD or eligible sports person etc., they were considered under those sub-category first keeping in view the *inter se* marks secured by the said candidates in the written examination belonging to the said sub-category and keeping in view the number of posts to be filled in the said sub-category. Hence, the petitioner who was only competing in the EWS category but was not claiming any reservation under any other sub-category, cannot claim equality.

10. Furthermore, the respondents are on record to say that in case any candidate is found ineligible in the sub-category, he/she was reverted back to the main category and is only allowed to participate in the main category if he/she shall fulfils the criteria of written marks equivalent to the last candidate called for the scrutiny to the said main category. That being so, a fair approach has been laid down by the respondents to consider the claim of a candidate as to where he/she shall will fall i.e. the



main category as well as the sub-category. Hence, the petitioner cannot raise the grievance that any candidate, who applied under the EWS category but was also claiming reservation under any other sub-category, having lower marks than the petitioner, has been called for the scrutiny process as the petitioner and such candidates are not similarly situated.

11. Even otherwise, details of the candidates qua which grievance was raised by the petitioner in the petition have been replied by the respondents in Paragraph No.8 of the reply where, the clarification has been given qua each of the candidate, against whom the petitioner has raised the objection, which justify their action qua those candidate and also prove that grievance raised by the petitioner qua those candidates is misplaced. The clarification given by the respondents in the reply has not been rebutted back, hence, keeping in view the clarification given by the State, it cannot be said that the petitioner has been treated unfairly so as to cause any prejudice to him while considering his claim for the post in question.

12. No ground is made out for any interference by this Court in the present petition.

15. Accordingly, present petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

31.05.2024
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Whether speaking/reasoned : Yes
Whether Reportable : No