



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

210

CWP No. 17315 of 2018**DECIDED ON: 20th May, 2024**

Vikas Kohar

.....PETITIONER

VERSUS

State of Haryana and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Mazlish Khan, Advocate for the petitioner.

Ms. Vibha Tiwari, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI, J (ORAL)

1. In the present petition, the prayer of the petitioner is that the petitioner be given appointment against the post of Pharmacist from the date, the petitioner was entitled for i.e. the date from which respondent No.4 was appointed with all consequential benefits.

2. Learned counsel for the petitioner argues that the respondent had issued Advertisement No.1 of 2015 inviting application for the post of Pharmacist. The petitioner competed for the said post in the general category being fully eligible as per the qualification prescribed. After the declaration of the result, the petitioner was not selected for the post in question and was placed in the waiting list and respondent No.4 was selected against the advertised post. Thereafter, as certain post became available due to non-joining of candidates, the petitioner was also appointed as Pharmacist in the year 2021.



3. Learned counsel for the petitioner submits that after the testimonials submitted by respondent No. 4 were verified, it came to the notice of the respondents that respondent No.4 was not eligible for appointment to the post of Pharmacist and his appointment was withdrawn.

4. Learned counsel for the petitioner submits that respondent No.4 applied for the post in question in BCB category and was selected for the post in question in General category on account of securing more marks than the last selected candidate in General category. Thereafter, it came to the notice of the respondent-department that 12 marks for experience have wrongly been granted to respondent No.4 and it has already been decided to withdraw the same and respondent No.4 will be treated in his own category of BCB and the vacant post of General category is to be given to the petitioner in the general category from the date respondent No.4 was appointed and hence the respondents are liable to be directed to anti-date the appointment of the petitioner as a Pharmacist in the general category with effect from the date the respondent No.4 was appointed with all consequential benefits.

5. Learned State counsel has not been able to rebut the facts which have been raised by learned counsel for petitioner.

6. Learned counsel for respondent No.4 only submits that as the respondent No.4 has vacated the general category seat after the appointment of petitioner and hence no benefits can be extended to the petitioner.

7. I have heard learned counsel for parties and gone through the record the case.

8. Once respondent No.4 competed in the reserved category of BCB but by the grant of certain marks in the experience category, he secured higher marks so as to be appointed in the General category ahead of the petitioner but



treated in the BCB category, hence, the seat which has been vacated in the general category by respondent No.4 has to be offered to the petitioner being next in merit. It is not disputed before this Court that had respondent No.4 not been shifted from BCB category to the General category, the petitioner would have offered the appointment at the time when the same was offered to respondent no. 4. Hence, on the same analogy, once respondent No.4 had vacated the general category seat, the same has to be offered to the petitioner being next in merit from the date the same was offered to respondent No.4.

9. Keeping in view the above, the respondents are directed to grant anti-date the appointment of the petitioner as a Pharmacist from the date respondent No.4 was appointed initially against the General category post. Upon anti-dated appointment, the benefit of seniority and experience will be given but no financial benefit will be given as the same anti-dated appointment will be notional.

10. Let the order be complied with within a period of eight weeks from receipt of the copy of order from today.

11. Present petition is allowed in above terms.

(**HARSIMRAN SINGH SETHI**)
JUDGE

20th May, 2024

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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>