

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

106

CWP-27666-2017
Date of Decision: 14.02.2024

MANJEET AND ANR

...PETITIONERS

Versus

UNION OF INDIA AND ORS.

--- RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Vivek Suri, Advocate
for the petitioners.

Mr. Sandeep Bhatia, Senior Panel Counsel
for Union of India-respondents.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners through the instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of memorandum dated 06.11.2017 (Annexure P-6) whereby they have been informed that vacant seats would be carried forward in the next recruitment process. The petitioners are further seeking directions to the respondents to appoint them against the seats of general category candidates.
2. The petitioners pursuant to advertisement applied for the post of Constable (Driver). The respondent, at the first instance, advertised 472 posts which during the selection process were increased to 522. In the original list, there were 149 unreserved seats and all other seats were reserved for SC/ST/OBC candidates. The increased posts included 171 unreserved seats and all other seats were reserved for SC/ST/OBC candidates. The petitioners participated in the selection process and they

cleared written test. The petitioners were called for document verification as well as detailed medical examination. The name of the petitioner No. 1 was at Sr. No. 32 and name of petitioner No. 2 was at Sr. No. 28 of the extended list of unreserved category. The respondent has appointed more candidates belonging to reserved category than seats meant for them whereas 95 candidates belonging to unreserved category have been selected against 171 seats.

3. Learned counsel for the petitioners submits that respondent has selected candidates belonging to reserved category more than seats earmarked for them whereas only 95 candidates of unreserved category have been selected against 171 seats. 4 seats of reserved category candidates are still lying vacant, thus, petitioners should be appointed against those seats.

4. Per contra, Mr. Bhatia, Sr. Panel Counsel, submits that in the advertisement, it was provided that SC/ST/OBC candidates if selected on their own merits without taking benefit of relax standards along with candidates belonging to unreserved category will not be adjusted against the reserved seats. Such SC/ST/OBC candidates will be accommodated against the general/unreserved vacancies as per their position in overall merit list. Many candidates belonging to OBC category secured more marks than general category candidates, thus, they occupied unreserved seats. No seat meant for general category candidates is lying vacant and petitioners belong to general category, thus, their claim cannot be considered. The cut off for general category candidates was 76.5 and the petitioners have secured 76 marks, thus, they cannot be selected.

5. I have heard the arguments of learned counsel for the parties and perused the record.

6. The petitioners participated in the selection process as general category candidates. In the advertisement, it was provided that SC/ST/OBC candidates who are selected on their own merit would be adjusted against unreserved seats. The relevant extract of the advertisement read as :

“SC, ST and OBC candidates, who are selected on their own merit without taking benefit of relax standard along with candidates belonging to unreserved category will not be adjusted against the reserved share of vacancies. Such SC, ST & OBC candidates will be accommodated against the General/Unreserved vacancy as per their position in the overall merit list. The reserved vacancies will be filled up separately from amongst the eligible SC, ST and OBC candidates which will, thus, comprise of SC, ST and OBC candidates who are lower in merit than the last general candidates on merit list of unreserved category but otherwise found suitable for appointment even by relaxed standard.”

7. The said paragraph which is in consonance with law laid down by Supreme Court makes it clear that SC/ST/OBC candidates who are selected on their own merit without taking benefit of relax standards would not be adjusted against reserved seats. The respondent has selected SC/ST/OBC candidates more than seats earmarked for them. The only reason was that many candidates belonging to reserved category secured more marks than general category candidates and accordingly, they occupied seats meant for general category candidates. The petitioner secured 76 marks and last selected candidates had secured 76.5 marks under unreserved category, thus, claim of the petitioners is not sustainable.

8. In the wake of above discussion and findings, this Court is of the considered opinion that the petition *sans* merit, thus, deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

14.02.2024
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>