

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-5007-2018 (O&M)
Date of Decision :10.12.2024

Gurmukh Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Dhiraj Chawla, Advocate for the petitioner.

Mr. Arun Gupta, DAG, Punjab.

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Harsimran Singh Sethi, J. (Oral)

In the present petition, the grievance being raised by the petitioner is that the petitioner has been declared ineligible for the post of Fitter Instructor as advertised by the respondents vide advertisement dated 01.03.2013 (Annexure P/1).

Learned counsel for the petitioner submits that there was only one post reserved in the category of Scheduled Caste (Ex-Serviceman) against which the petitioner competed being the dependent of Ex-Serviceman. Learned counsel for the petitioner further submits that the last date for filling up the application form was 25.03.2013 and though the petitioner did not have the certificate issued by the competent authority i.e. Zila Sainik Board certifying that the petitioner is dependent upon an Ex-Serviceman but after last date, the petitioner got the dependent certificate on 09.01.2014 and the same was submitted by him on 17.01.2014. Learned counsel for the petitioner submits that though, the certificate was submitted after last date but as the selection process was completed after the

submission of the certificate, the petitioner should have been treated eligible to compete in the category of Scheduled Caste (Ex-Serviceman).

Upon notice of motion, the respondents have filed reply wherein it has been stated that on the last date of submission of application form i.e. 25.03.2013 the candidate who is competing in the reserved category has to show his/her eligibility to compete in the said reserved category whereas, the petitioner did not produce any document showing him to be the dependent of an Ex-serviceman up to the last date of submission of application form.

Learned counsel for the respondents submits that in the facts and circumstances of the present case, the petitioner did not have even the certificate that he is a dependent as the same was issued in January 2014 much after the last date of submission of application form hence, the claim that petitioner should have been considered under the category of Scheduled Caste (Ex-Serviceman) is liable to be rejected.

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

As per the settled principle of law, the candidate is required to be eligible to compete in case, he/she fulfills all the requisites up to the last date of submission of application form. The Hon'ble Supreme Court of India in **Civil appeal No.7677-2021 titled as State of Bihar and others vs. Madhukant Ranjan and another, decided on 16.12.2021** has held that any candidate who was not eligible and does not produce the relevant document up to the last date, cannot be treated eligible subsequently. Relevant paragraph of the judgment is as under:-

“9. As per the settled proposition of law, a candidate/applicant has to comply with all the

conditions/eligibility criteria as per the advertisement before the cut-off date mentioned therein unless extended by the recruiting authority. Also, only those documents, which are submitted alongwith the application form, which are required to be submitted as per the advertisement have to be considered. Therefore, when the respondent No.1 – original writ petitioner did not produce the photocopy of the NCC ‘B’ certificate alongwith the original application as per the advertisement and the same was submitted after a period of three years from the cut-off date and that too after the physical test, he was not entitled to the additional five marks of the NCC ‘B’ certificate. In these circumstances, the Division Bench of the High Court has erred in directing the appellants to appoint the respondent No.1 – original writ petitioner on the post of Constable considering the select list dated 08.09.2007 and allotting five additional marks of NCC ‘B’ certificate.”

In the present case, the petitioner is claiming the consideration under the category of Scheduled Caste (Ex-Serviceman). The petitioner can only compete, being the dependent ex-serviceman, in case, he had a relevant certificate issued by the competent authority i.e. Zila Sainik Board showing that the petitioner is dependent upon his father, who was an Ex-serviceman. Concededly, there was no such certificate issued by the competent authority in favour of the petitioner up to the last date of submission of application form hence, the petitioner was not eligible to apply in the said category hence, the claim that subsequent issuance of certificate in favour of the petitioner be treated as eligibility, cannot be accepted.

Learned counsel for the petitioner is placing reliance upon the judgment of the Coordinate Bench of this Court in **CWP-21504-2015 titled as Gurpreet Singh vs. State of Punjab and another, decided on 08.10.2015.**

It may be noticed that the said case relates to the category of Scheduled caste. It may be further noticed that the person, who belongs to

the reserved category of Scheduled caste, is a Scheduled caste before the last date as well as after last date of submission of application form and the said judgment has been given keeping in view the category in which the candidate sought his consideration. Whereas, in the present case, the eligibility to compete as a dependent depends upon the income of the candidate which fact has to be certified by the authority concerned. The authority issued the certificate in favour of the petitioner on 09.01.2014 keeping in view the facts and circumstances as existed on the said date. Hence, applying the said certificate with retrospective effect, cannot be done so as to grant eligibility to the petitioner. It could be possible that a candidate might be in job up to the last date of submission of application form and leaves the same and thereafter, gets a dependent certificate. Hence, where the petitioner is competing as the dependent of Ex-serviceman, he cannot be granted the benefit of subsequent certificate by granting it retrospective effect.

No other argument has been raised.

Dismissed.

Civil miscellaneous application pending, if any, is also disposed of.

December 10, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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