

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-19642-2023
Date of Decision: 30.04.2024

Savita ...Petitioner(s)

Versus

State of Haryana and others ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Chandan Singh, Advocate and Mr. Parveen Jain, Advocate
for the petitioner

Mr. Parveen Mehta, DAG, Haryana

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed, *inter alia*, seeking a writ of *certiorari* setting aside the memo dated 01.02.2023, Annexure P-14, issued by the third respondent cancelling the petitioner's candidature for the post of Employability Skill Instructor (for short 'Instructor') against advertisement no.12 of 2019, and also the order dated 12.07.2023, Annexure P-17, rejecting her representation against it. Further, a writ of *mandamus* has been sought directing the respondents to appoint the petitioner to the post of Instructor as per merit.

2. Briefly, as per facts apparent on record, the petitioner was an applicant for the post of Instructor in response to advertisement no.12 of 2019, category no.7, as a general category candidate. She had claimed benefit of five marks under socio-economic criteria on the ground that none of her family members, viz., father, mother, spouse, brother, and son is, was or has been a regular employee in any Department/Board/Corporation/Company/Statutory

Body/Commission/Authority of Government of Haryana or any other State Government or Government of India. Final result of selection was declared on 20.04.2022, the petitioner remained successful scoring sixty-five marks as against sixty of the last selected candidate in the category. Accordingly, she was recommended by the Commission/fourth respondent for appointment to the Department of Skill Development and Industrial Training/second respondent. The Department called her for physical verification of documents and to submit a certificate verified by Tehsildar/Executive Magistrate/SDM giving the requisite particulars, including the fact as to whether any person among her family was in government job. Status of employment of women candidates' family was to be considered with reference to her family of birth, and not of in-laws. In response thereto, she submitted an affidavit dated 04.08.2022, Annexure P-11, for the first time disclosing that she mistakenly claimed five marks under socio-economic criteria which led to her selection for the post. In the affidavit, she has stated, *'That I had applied an online of HSSC, against advertisement No. 12/2019, Cat. No. 7, Post Employability Skill Instructor, the roll no of which is 1219070168, in which despite my mother having a government job, I had mistakenly registered 'No' in the option because I could not understand and I had considered my in-laws side only. Due to which I got 5 marks under Socio-economic Criteria and I have been selected.'*

3. In response to a clarification later sought by the Department, she submitted a self-declaration giving consent to reduction of five marks under socio-economic criteria given to her on account of 'no job to any family member'. The Department thereupon sought a response from the Commission which was received vide communication dated 20.12.2022. It was to the effect

that her recommendation should be withdrawn and candidature should be

cancelled on account of furnishing wrong/false information to the Commission regarding socio-economic criteria for the post in question. Accordingly, her candidature was cancelled with immediate effect vide impugned order dated 01.02.2023. Further, her representation was decided pursuant to directions issued by this Court in CWP No.4502 of 2023, vide impugned office order dated 12.07.2023, whereby her request to withdraw the memo, dated 01.02.2023, was rejected. This has led to filing of the instant petition.

4. The only contention raised by learned counsel for the petitioner is, it was a *bona fide* mistake on the petitioner's part that she submitted wrong information claiming none of her family members was in government job, which resulted in allotment of five marks under socio-economic criteria. She is a married lady and was under the impression that 'family' for her would be the in-laws' family. Since none from her in-laws family was in government job, she claimed marks under socio-economic criteria. Even if these marks are excluded from sixty-five marks scored by her, she has a chance of selection as the last selected candidate in general category scored sixty marks. Therefore, she should be allowed to correct this *bona fide* mistake and withdraw the claim for marks under the criteria.

5. Learned State counsel, on the contrary, contends that the petitioner deliberately made a false claim to get marks under the socio-economic criteria for the purpose of selection, and her candidature was rightly cancelled. There was a clear stipulation in the advertisement that if, at any stage, it is found that the information furnished by the candidate was false or incorrect, the candidature would be cancelled and he/she would also be liable to be prosecuted criminally. Besides, the Commission vide public notice dated

withdraw their claim/undertaking for socio-economic criteria marks in case the same had been wrongly given, but she did not. Therefore, her candidature was rightly cancelled.

6. Arguments advanced by learned counsel for the parties have been considered.

7. The award of marks under socio-economic criteria is on the basis of the following stipulation in the advertisement.

2.3 Criteria for Selection, Examination & Syllabus, it is clearly mentioned (Annexure P-1):-
(i) and (ii) xxx xxx xxx
(iii) The 10 marks for socio-economic criteria and experience shall be allocated as follows:

a. if neither the applicant nor any person from among the applicant's family viz father, mother, spouse, brother, and Son is, was or has been a regular employee in any Department/ Board/ Corporation/ Company/ Statutory Body/ Commission/ Authority of Government of Haryana or any other State Government or Government of India.

(5 marks)

b. to d. xxx xxx xxx

8. A perusal of the criterion clearly shows, for allocation of marks the requirement is, neither the applicant nor any person from her family, viz., father, mother, spouse, brother, and son is, was or has been a regular employee in any Department/Board/Corporation/Authority of Government of Haryana, etc. or any other State Government or Government of India. The words are clear and specific and do not call for any interpretation/clarification. The family members have been defined as father, mother or brother, and not father-in-law, mother-in-law, or brother-in-law. Mother and father of a candidate will always remain thus, and cannot be taken/read as mother-in-law

or father-in-law, as has been done by the petitioner in self interest.

Admittedly, despite her mother being in Government service, she claimed five marks under the socio-economic criteria by concealing the fact.

9. Before declaring the final result of selection, the Commission issued a public notice, dated 22.12.2021, providing an opportunity to candidates to withdraw their claim for award of socio-economic criteria marks in case it has been submitted wrongly. The relevant extract of the notice reads as under:

... It is notified for all concerned candidates who wish to withdraw their claim/undertaking for Socio-Economic criteria marks under the head "Applicant or any person amongst the applicant's family viz father, mother, spouse, brother and son is, was or has been regular employee in any Department/ Board/ Corporation/ Company/ Statutory Body/ Commission/ Authority of Government of Haryana or any other State Government or Government of India. This notice is applicable for the posts and categories where final result is yet to be declared.

Note: 1. No subsequent chance will be given to correct the information once furnished and candidate will solely be responsible for any wrong claim made by him/her.

Despite this public notice, the petitioner did not withdraw the claim. The final result of selection was declared on 20.04.2022, wherein she was declared selected and recommended for appointment to the Department.

10. Only thereafter, when the petitioner was required to file an affidavit certifying her claim for socio-economic criteria marks, that she disclosed about her mother being in government job. The facts were brought to the notice of Commission. Since there was a clear stipulation in the advertisement that false information given by a candidate would result in

cancellation of candidature, the impugned order cancelling her candidature was passed. The stipulation, contained in condition 16, is as under:

16. If on verification at any stage, it is found that any candidate does not fulfill any of the eligibility condition or it is found that the information furnished is false or incorrect, his/ her candidature will be cancelled and he/she will also be liable to be criminally prosecuted. This is irrespective of whether the candidate was benefitted in his/her application from that particular eligibility condition or not.

11. In this factual background, it cannot be said that the wrong claim for socio-economic criteria marks by the petitioner was an inadvertent *bona fide* mistake on her part. Despite there being clear stipulation requiring her to disclose about mother's government job, if any, she chose to conceal the fact, and wrongly claimed the marks for getting selected. Despite an opportunity having been given to withdraw the claim vide public notice dated 22.12.2021, she chose not to. Only after the selection, it was disclosed on 04.08.2022 that her mother was in government service, that too after the marks of selected candidates were made known to the candidates on 20.04.2022 and the petitioner knew she would remain in the zone of selection even after foregoing socio-economic criteria marks. She has tried to hoodwink the Commission to get selected on false claim, and cannot be allowed to wriggle out of the situation on the excuse of misreading the definition of family, which calls for no interpretation/clarification at all, as already discussed. It cannot be believed she realised the mistake only after getting selected and disclosed the fact; rather, it lays bare her *mala fide* intent, which cannot be overlooked. Besides, there is no illegality or irregularity in the impugned action as the candidature has been cancelled strictly in accordance with the

stipulation in the advertisement, which does not call for any interference by this Court.

12y. In view of above discussion, this Court is of the considered opinion that there is no merit in the petition, thus, it stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

30.04.2024
Payal

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