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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-23880-2024
Date of Decision:19.09.2024

PRITI Petitioner

Versus

STATE OF U.T CHANDIGARH AND ANR. Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. I.S. Khosa, Advocate for the petitioner.

Mr. Himanshu Arora, Advocate for
Mr. Aman Bahri, Advocate for respondents.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking direction to respondents to consider her under OBC Category instead of General Category.
2. The petitioner pursuant to an advertisement applied for the post of TGT (Masters/Mistress). She in her application form applied under General Category though she belongs to Other Backward Class Category. She appeared in the written test and provisional list was declared. At this stage, she realized that she has wrongly applied under General Category. She made a representation dated 26.08.2024 (Annexure P-6) to respondent requesting to change her category.
3. Learned counsel for the petitioner submits that it was a *bona fide* mistake on the part of petitioner. She should not be denied her valuable rights. She qualifies under OBC Category.
4. I have heard the arguments and perused the record.



5. A two-judge Bench of Supreme Court in ***J & K Public Service Commission vs. Israr Ahmad and ors., 2005 (12) SCC 498*** has held that a candidate cannot be permitted to claim benefit of reservation after participating in the examination process.

In the said case, the petitioner after passing preliminary examination claimed benefit of reservation. A single judge of High Court of J & K held that a candidate was not entitled to benefit of reservation, however, a Division Bench extended benefit of reservation. The Apex Court reversed judgment of Division Bench holding that a candidate cannot be permitted to claim benefit of reserved category after last date of submitting application. The relevant extracts of the judgment read as :

3. The first respondent thereafter challenged the selection by filing a writ petition and the learned Single Judge of the High Court of Jammu and Kashmir held that the first respondent was not entitled to the benefit of reservation based on SRO 126 of 1994 as he had not indicated in his application for the preliminary examination that he was entitled to such benefit. The writ petition filed by the first respondent was dismissed and he challenged the same by way of LPA (SW) No. D- 29 of 2002 and the Division Bench of the High Court of Jammu and Kashmir held that the first respondent herein in fact possesses the eligibility for being considered in the reserved category even before the date of advertisement and he submitted his proof only later and that by itself did not disentitle him from claiming the reservation. Accordingly, the LPA was allowed and the direction to treat him under the reserved category was issued. This is challenged before us by the Public Service Commission.

4. Learned counsel for the Commission submits that as



the last date for submitting the application was 16-3-1999 the respondent did not produce the certificate claiming reservation nor did he indicate in the application that he belongs to that category. It was submitted that several other applications of similar nature were rejected by the Commission and the respondent's application also was treated alike and the Division Bench erred in coming to the conclusion that he was entitled to get reservation. Counsel for the respondent on the other hand pointed out that though the first respondent did not avail of the benefit of reservation when he submitted the application for the preliminary examination he had submitted the application for the main examination in which he had clearly shown that he was entitled to get reservation as per SRO 126 of 1994 dated 20-6-1994 and he had also produced the certificate along with the application for the main examination. It is submitted that he had claimed the reservation for the main examination and he should have been treated as a reserved candidate in the main examination.

5. We have considered the rival contentions advanced by both the parties. The contention of the first respondent cannot be accepted as he has not applied for selection as a candidate entitled to get reservation. He did not produce any certificate along with his application. The fact that he has not availed of the benefit for the preliminary examination itself is sufficient to treat him as a candidate not entitled to get reservation. He passed the preliminary examination as a general candidate and at the subsequent stage of the main examination he cannot avail of reservation on the ground that he was successful in getting the required certificate only at a later stage. The nature and status of the candidate who was applying for the



selection could only be treated alike and once a candidate has chosen to opt for the category to which he is entitled, he cannot later change the status and make fresh claim. The Division Bench was not correct in holding that as a candidate he had also had the qualification and the production of the certificate at a later stage would make him entitled to seek reservation. Therefore, we set aside the judgment of the Division Bench and allow the appeal.

No costs.”

6. The case of the petitioner is squarely covered by aforesaid judgment. In the case in hand, the petitioner neither before the last date nor before the date of examination approached authorities for correction of her category. She appeared in the exam under General Category and on being declared unsuccessful under the said category, is claiming change of category. The claim of the petitioner, at this stage, cannot be countenanced.

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

(JAGMOHAN BANSAL)
JUDGE

19.09.2024
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No