



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(132)

CWP No. 28410 of 2024
Date of Decision : 21.10.2024

Dr. Sukhwinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Dhiraj Jindal, Advocate for the petitioner.
Mr. Satnam Preet Singh, Deputy Advocate General, Punjab.
Mr. H.S. Bath, Advocate for the respondent No. 3-University.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance of the petitioner is that the petitioner competed for the post of Assistant Professor as per the Advertisement dated 19.10.2021 (Annexure P-2).
2. Learned counsel for the petitioner submits that keeping in view the fact that there were large number of posts to be filled in the General Category, the petitioner applied in the General Category. Learned counsel submits that thereafter, the petitioner filed a representation to consider the petitioner in the Reserved Category i.e. for the change of his Category from General Category to Reserved Category, which has not been accepted, which is causing prejudice to the petitioner and, therefore, the respondents be directed to consider the claim of the petitioner for the post of Assistant



Professor in Punjabi in the Reserved Category of Backward Class instead of General Category.

3. Notice of motion.

4. On the asking of the Court, Mr. Satnam Preet Singh, Deputy Advocate General, Punjab, who is present in Court, accepts notice on behalf of the respondent-State and Mr. H.S. Batth, Advocate appears on behalf of respondent No. 3-University.

5. Learned counsel for the respondents submit that as per the Advertisement, once a Category has been applied for and the petitioner has competed under the General Category, after the declaration of the result, the petitioner cannot claim the change of his Category from General to Backward.

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

7. In the present petition, the claim of the petitioner is that he should be allowed to change his Category from General Category to Backward Class. The question of law whether, the candidate can be allowed the said benefit has already been considered by the Hon'ble Supreme Court of India in Civil Appeal No. 198 of 2005, titled as ***J.& K. Public Service Commission Vs. Israr Ahmad & Others***, decided on 07.01.2005. The relevant paragraph No. 6 of the said judgment is as under :-

“6. 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 the 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 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 the 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 later stage would make him entitled to seek reservation. Therefore, we set aside the judgment of the Division Bench and allow the appeal.”

8. Keeping in view the reproduction, it is clear that once a candidate has applied in a particular category and competed, later on the said Category cannot be allowed to change. The petitioner has not been able to rebut the said judgment to be applicable upon the case of the petitioner and that it is contrary to the relief being sought by the petitioner in the present petition.

9. Keeping in view the above, no ground is made out for the grant of any relief to the petitioner as being claimed in the present petition.

10. Dismissed.

October 21, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No