



LPA No.2742 of 2024
Decided on :06.11.2024

VERSUS

**CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Mr. R.S. Pandher, Sr. DAG, Punjab.

2 Learned counsel for appellant submits that candidature of appellant was rejected on the ground that EWS certificate submitted by her was not as per instructions dated 30.10.2020, Annexure P-14 as well as terms and conditions of advertisement.

3 Learned counsel for appellant vehemently argues that learned Single Bench has not considered the controversy in its correct prospective. Income certificate for the financial year 2019 was correctly submitted by appellant because as per notification dated 30.10.2020, certificate to be provided is for the financial year prior to the year of application. He refers to clause 5.1 of said notification dated 30.10.2020. He further submits that certificate submitted by appellant was duly certified to be valid for the financial year 2020-2021, which is in accordance with terms and conditions of advertisement as well as notification dated 30.10.2020. It is further submitted that in case authorities had sought an income certificate different than the one submitted, it was incumbent upon them to have informed or intimated the appellant. However, no such intimation was ever given to appellant. Therefore, appellant who has gone through the process of selection and was successful, should not be shown the door only because of perceived non submission of alleged certificate. It is thus prayed that this appeal be allowed, impugned order dated 14.10.2024 be set aside and writ petition be allowed as prayed for.

4. Learned counsel for State opposes the appeal while submitting that income certificate submitted by appellant was issued on 13.02.2021 and does not fulfil requisite terms and conditions of advertisement or notification dated 30.10.2020. He has also furnished copies of valid certificates submitted by other successful candidates. It is further submitted that certificate submitted by applicant was not valid in terms of clause 5.1 of notification dated 30.10.2020. Dismissal of appeal is sought.

5. We have heard learned counsel for parties and have gone through the file with their able assistance. Factum of appellant applying for the post of

Constable in TSS Cadre pursuant to advertisement dated 09.09.2022 in the category of EWS is a matter of record. Candidature of appellant was rejected on the ground that EWS certificate submitted by her was not proper and in accordance with the applicable provisions. At this stage, it is pertinent to refer to terms and conditions as contained in the advertisement dated 09.09.2021. Clause 4 of the advertisement deals with reservation policy and Clause 4.6 reads as under:-

‘The reservation for Economically Weaker Section (EWS) shall be implemented in accordance with the Punjab Govt. Department of Social Justice, Empowerment and Minorities (Reservation Cell) instructions issued vide letter No.1/3/2019-RC1/700 dated 30.10.20.’

6 Instructions dated 30.10.2020 are attached as Annexure P-14 with writ petition. Said instructions deal with economically weaker sections in direct recruitment in civil posts and services in the government of Punjab. Clause 5 of said instructions provides for relevant criteria for income and assets and reads as under:-

‘5 CRITERIA OF INCOME AND ASSETS:

*5.1 The persons belonging to the State of Punjab who are not covered under the existing scheme of reservation for SCs and DCs and whose family has gross annual income below rupees 8.00 lakhi (rupees eight lakh only) are to be identified as EWSs for benefit of reservation. Income shall also include income from all sources i.e. salary, agriculture, business, profession, etc. **for the financial year prior to the year of application.** (emphasis added)*

Also person whose family owns or possesses any of the following assets shall be excluded from being identified as EWS, Irrespective of the family Income:-

- (i) Five Acres of agricultural land and above;*
- (ii) Residential flat of 1000 square feet and above,*
- (iii) Residential, plot of 100 square yards and above in notified municipalities/nagar panchayats;*
- (iv) Residential, plot of 200 square yards and above in areas other than the notified municipalities or nagar panchayats.*

5.2 The property held by a "Family" in different locations or different places or cities would be clubbed while applying the land or property holding test to determine EWS status.

5.3 The term "Family" for this purpose shall include the person who seeks benefit of reservation, his or her parents, siblings below the age of eighteen years, as also his or her spouse and children below the age of eighteen years.'

7 It is provided in Clause 6.2 that crucial date for submitting income and asset certificate by the candidate shall be treated to be closing date for receipt of application for the post. It is to be noted at this stage that advertisement was issued on 09.09.2021. A perusal of certificate submitted by present appellant as annexed as Annexure P-3 with writ petition reveals that it pertains to financial year 2019-2020 whereas the requirement was for submission of certificate qua financial year 2020-2021. We have also perused photocopies of relevant certificates submitted by other candidates which duly reflect that said certificate(s) is/are valid for financial year 2020-2021. In the given facts and circumstances, we do not find any merit in the arguments raised by learned counsel for appellants that as per interpretation of appellant, the certificate submitted by her states that it is valid for financial year 2020-2021, therefore, appellant assumed that this fulfils the requirement as per terms and conditions of advertisement and notification dated 30.10.2020, consequently, the certificate should be accepted having been submitted under bonafide belief regarding interpretation of the Clause in question.

8 Learned counsel for appellant was vehement in his argument that such an interpretation is quite justified on a bare perusal of stipulations in question. However, such argument is completely devoid of any merit, hence rejected. It is not the interpretation of appellant or justifiability thereof that has to be taken into consideration for the question of acceptance or rejection of his candidature but the specific terms and conditions as provided which are relevant.

9. In the given facts and circumstances, learned Single Bench has correctly dismissed the writ petition filed by appellant. Learned counsel for appellant is unable to point out any illegality, infirmity or perversity in impugned order which calls for interference. No other arguments were addressed.

Appeal is accordingly dismissed.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

06.11.2024

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