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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-19219-2018 (O&M)
Date of Decision: 28.08.2024

Vishal Kumar

....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Prateek Gupta, Advocate, for the petitioner.
Mr. Gaurav Jindal, Additional Advocate General, Haryana.
Mr. Padamkant Dwivedi, Advocate, for respondents No.2 to 4.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the order dated 23.04.2018 (Annexure P-8) vide which the representation of the petitioner dated 09.04.2018 (Annexure P-7) has been rejected, with a further prayer to direct the respondents to issue the appointment letter to the petitioner for the post of Assistant Engineer (Electrical) under the OSP quota.
2. Learned counsel appearing on behalf of the petitioner submitted that it is a case where the petitioner in pursuance of the advertisement



(Annexure P-1) applied for the post of Assistant Engineer (Electrical) under the Outstanding Sports Person BC-B Category which is clear from Annexure P-2. He submitted that only one post was reserved for the aforesaid category and the result was declared in the month of November, 2017 in which the petitioner was kept at serial No.1 in the waiting list because there was only one post and another person was selected. He further submitted that thereafter vide Annexure P-5 instructions were issued by the Government of Haryana dated 06.04.2018 in which it was stated in para No.3 that it has been clarified that henceforth the reservation for ESP in Group A, B, C and D posts will be overall horizontal reservation and will not be compartmentalized between Unreserved/General, Scheduled Caste, Backward Class categories. He submitted that once the aforesaid instructions have been issued by the Government of Haryana which may be in the nature of clarificatory instructions but the petitioner was thereafter to be considered on horizontal basis on the basis of the re-classified reservation to be Eligible Sports Person, even if at that point of time the petitioner was in the waiting list and therefore, considering the aforesaid instructions (Annexure P-5) a direction may be issued to the respondents to consider the petitioner for appointment under the category of Eligible Sports Person.

3. On the other hand, learned counsel appearing on behalf of the respondent-Nigam submitted that the petitioner participated in the process and he applied under Outstanding Sports Person BC-B Category which was a reservation system which was adopted at the time of issuance of the advertisement and thereafter, the result of the petitioner was declared in the month of November, 2017 in which he was kept at serial No. 1 in the waiting



list. He submitted that there was only one post reserved under the aforesaid category on which another person has already been appointed and as of today there is no other vacancy available in the aforesaid category, even in the category of ESP for the aforesaid post. He also submitted that the aforesaid Annexure P-5 which has been referred to by the learned counsel for the petitioner was issued on 06.04.2018 in the nature of a clarificatory letter but at that point of time the entire process was over and the petitioner was already in the waiting list and the aforesaid instructions were operative prospectively and on the basis of the aforesaid instructions the reservation which was already adopted and implemented in which another person has been selected could not have been changed but the aforesaid clarificatory letter applied only for the subsequent recruitment and therefore, the reliance placed by the learned counsel for the petitioner upon Annexure P-5 is unsustainable.

4. I have heard the learned counsels for the parties.

5. It is a case where the petitioner had applied under Outstanding Sports Person BC-B Category and the entire process was completed whereby the result was declared in the month of November, 2017 in which another person was appointed because there was only post kept for reservation in the aforesaid category. Thereafter, on 06.04.2018 one clarificatory letter was issued by the Government of Haryana vide Annexure P-5 in which it was clarified that henceforth the reservation for ESP in Group A, B, C and D posts will be overall horizontal reservation and will not be compartmentalized between Unreserved /General, Scheduled Caste, Backward Class categories. By the time the aforesaid letter was issued, the entire process was over and the petitioner was in



the waiting list. Therefore, it is clear that the aforesaid letter has operated only prospectively but it could not have upset the the selection process by changing the reservation category with a retrospective effect. The aforesaid Annexure P-5 would not be of any avail to the petitioner because by the time it was issued the petitioner was already kept in the waiting list and another person had already been selected and therefore, the clock could not have been turned back. Therefore, this Court is of the considered view that the present petition is devoid of any merit and the same is hereby dismissed.

28.08.2024

rakesh

(JASGURPREET SINGH PURI)

JUDGE

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