

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(228)

CWP No. 627 of 2020
Date of Decision : 11.01.2024

Kamna

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. G.S. Bajwa, Advocate for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance of the petitioner is that the respondents advertised 137 posts of Supervisor (Female) to be filled through the Haryana Staff Selection Commission, Panchkula. The petitioner participated in the reserved category of BC-B and was in the waiting list No. 2 in the category of BC-B.
2. Learned counsel for the petitioner argues that one post of ESM (BC-B) could not be filled up and as there was no eligible candidate in the said category, the said post was required to be diverted to the main reserved category of BC-B but the respondents did not take any action, which forced the petitioner to file the present writ petition to claim that one post which is lying vacant in the ESM (BC-B) to be diverted to the

main reserved category of BC-B and filled up from the waiting list of BC-B Category.

3. Learned counsel for the respondents submits that keeping in view the reply filed in paragraph 2, it has been mentioned that one post of ESM (BC-B) remained vacant but as the validity of the waiting list was upto 09.12.2019, the post could not be filled up as the waiting list stood expired.

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

5. It is a settled principle of law that in case, the post of ESM (BC-B) could not be filled up due to non-availability of an eligible candidate, the said post should have been filled up from the main category of BC-B. It has come on record through the reply that one post of BC-B became vacant on 04.09.2019 and no candidate was available and the said post remained vacant. When the said post remained vacant on 04.09.2019, it is a conceded position that the waiting list was valid because the said waiting list only expired in the month of December, 2019. That being the position, the respondents were under obligation to divert the post of ESM (BC-B) in the main reserved category of BC-B and to consider the candidates, who are in the waiting list in the BC-B category.

6. Keeping in view the above, the present petition is allowed. The respondents are directed to fill up the post of ESM (BC-B), which remained vacant from the main reserved category of BC-B from the

waiting list of BC-B category by considering the claim of all the eligibles including the petitioner, if they are in the zone of consideration as per the issued waiting list of BC-B Category.

7. Let the present order be complied with within a period of two months from the date of the receipt of certified copy of this order.

January 11th, 2024
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No