



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-8791-2022 (O & M)
Date of Decision:20.05.2025

Sombir

.....Petitioner(s)

Versus

State of Haryana and others

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Ankur Sidhar, Advocate,
for the petitioner.

Ms. Palika Monga, DAG, Haryana.

Mr. Rajesh Gaur, Advocate,
for respondent No.3.

Mr. Parveen Moudgil, Advocate,
for respondent No.4.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of final result dated 22.03.2022 (Annexure P-6) and direction to respondent to issue him appointment letter for the post of Senior Accountant Clerk.

2. The petitioner pursuant to advertisement No.14/2019 applied for the post of Senior Account Clerk in the office of Haryana State Industrial and Infrastructure Development Corporation Limited (in short 'HSIIDC'). There were three posts under BCA category. The



petitioner belongs to BCA category and he filed application in his category. He was issued admit card. He participated in the written examination held on 26.12.2021. The respondent called successful candidates for scrutiny of documents held on 28.01.2022. The petitioner appeared for scrutiny of documents. The respondent declared final result and name of petitioner figured at serial No.1 in the BCA category waiting list. The last selected candidate under BCA category secured 59 marks and petitioner also secured 59 marks. The petitioner claims that respondent has wrongly awarded 5 marks under socio-economic criteria to respondent No.4 i.e. Sushila D/o Sh. Jai Prakash. 5 marks under socio-economic criteria could only be granted to a candidate whose no family member was or is in Government job. Real brother of respondent No.4 was working as Sub-Inspector in CRPF and her father had retired from a Government service, thus, respondent No.4 was not eligible for 5 marks under socio-economic criteria.

3. Mr. Ankur Sidhar, learned counsel for the petitioner submits that appointment of respondent No.4 has already been cancelled. The intending department has already appointed two candidates who were in waiting list despite lower in rank. The petitioner was at Sr. No.1 in the waiting list, thus, respondent was bound to consider his candidature whereas two other candidates from waiting list are selected because of pendency of present petition. The communication dated 14.11.2024 of HSIIDC confirms that recommendation of respondent No.4 stands withdrawn and HSIIDC refused to consider appointment of respondent No.4.



4. Mr. Parveen Moudgil, learned counsel for respondent No.4 submits that socio-economic criteria had already been declared *ultra vires* by Division Bench of this Court, thus, neither petitioner nor respondent No.4 could be awarded marks under socio-economic criteria. If marks awarded to petitioner under socio-economic criteria are excluded, he would not be at Sr. No.1 in the waiting list. The respondent No.4 has further requested Haryana Staff Selection Commission (in short 'HSSC') to consider her case for marks of experience.

5. Mr. Rajesh Gaur, learned counsel for respondent No.3 expressed his inability to controvert the fact that two candidates in the waiting list despite being lower than petitioner in merit have already been selected. He further submits that it is factually correct that respondent No.4 was never permitted to join and Recruitment Board has withdrawn her recommendation.

He further submits that claim of petitioner at this stage cannot be considered because waiting list has expired. As waiting list has expired, it is only Chief Secretary who can extend validity of waiting list so that petitioner may be appointed.

6. Ms. Palika Monga, DAG, Haryana expressed her inability to controvert the fact that recommendation of respondent No.4 has already been recalled. She further submits that it is intending department which has to appoint candidates from the waiting list. The HSSC was supposed to prepare merit list and recommend name of the candidates.

7. I have heard the arguments and perused the record.



8. From the perusal of record, it is evident that respondent No.4 was granted marks under socio-economic criteria despite her brother and father were in government service. She claimed marks on the ground that she is a married lady and her status should be linked with in-laws instead of parents. The marks under socio-economic criteria were prescribed in the notification dated 28.01.1970 as amended. Prior to notification dated 30.12.2021 whereby notification dated 28.01.1970 was amended, the status of a married lady was linked with parents and by aforesaid notification, status of married lady was linked with in-laws. The instant matter relates to advertisement of 2015, thus, status of respondent No.4 was required to be linked with her parents instead of her in-laws.

9. The respondent has already cancelled/recalled appointment/recommendation of respondent No.4. The petitioner is claiming that respondent has selected 2 candidates from waiting list who were lower in merit. Communication dated 14.11.2024 of HSIIDC reveals that HSIIDC is unable to issue appointment letter to petitioner because validity of waiting list has expired. The petitioner approached this Court in April' 2022 and at that point of time waiting list was in force. There was lapse, if any, on the part of respondents, thus, petitioner cannot be denied opportunity of appointment on the ground that waiting list has expired.

10. Claim of the respondent No.4 that socio-economic criteria has already been declared *ultra vires* cannot be countenanced, thus, no candidate is eligible for marks under said criteria because Division Bench



of this Court has not set aside granting of marks under said criteria with respect to selections made prior to 2021. The respondent has granted marks under said criteria to similarly situated persons. The official respondents are not denying marks to any candidate under socio-economic criteria *qua* advertisement in question, thus, there is no reason to deny marks to petitioner under said criteria if he fulfills requisite conditions.

11. In the wake of above facts and findings, this Court is of the considered opinion that instant petition deserves to be allowed and accordingly allowed. Claim of petitioner deserves to be considered without harping on the issue that waiting list has expired. Let the needful be done within 3 months from today.

12. It is hereby made clear that for all intents and purposes, petitioner's date of joining would be date of his appointment. He shall not be entitled to any notional service benefits.

13. Pending application(s), if any, shall also stand disposed of.

20.05.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
Yes