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

CWP-8914-2024 (O&M)

Date of Decision : 24-02-2025

HARJINDER SINGH**.....Petitioner**

VERSUS

**THE DISTRICT AND SESSIONS JUDGE FARIDKOT AND
OTHERS**

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Chandan Singh, Advocate with
Mr. Divya Datt, Advocate
for the petitioner.

Mr. Shreenath A. Khemka, Advocate
for respondent No.1

Ms. Akshita Chauhan, DAG Punjab.

None for respondent No3.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance of the petitioner is that even though the respondent-District and Sessions Division, Faridkot issued an advertisement (Annexure P-2) for filling up the post of Peon and Chowkidars, in which it was clearly stipulated that, one post is of Peon and 4 posts were that of Chowkidars and that out of the total 5 posts, 2 posts were to be filled up from General Category and 2 posts from General Category Ex-Servicemen and one post for the Reserved Category of Scheduled Castes and that the petitioner competed in the Reserved Category of Scheduled Castes, for which one post was reserved, whereas, ultimately, all the posts enumerated in the said advertisement have been filled up from the General

Category, which act on the part of the respondent No.1-District and Sessions Division, Faridkot is incorrect and arbitrary.

3. Learned counsel for the petitioner submits that the petitioner is the first eligible candidate to be considered and appointed for the posts advertised as he is the senior-most candidate eligible to be appointed in the reserved category of Scheduled Castes, for which category, one seat was reserved.

4. Upon notice of motion, the respondents have filed the reply. In the reply, the respondents have conceded that as has been stipulated in the advertisement there were 5 posts which were advertised to be filled up in the District and Sessions Division, Faridkot and one candidate namely Amit Kumar was even selected against the Reserved Category post but, ultimately it was found that Amit Kumar belonged to the Reserved Category which certification was issued by the State of Haryana, which for the concerned post was not applicable in the State of Punjab, by considering him as a General Category candidate, the said Amit Kumar had been given appointment.

5. Learned counsel for the respondents submits that even the said Amit Kumar had already resigned from the post and is no longer working as of now.

6. Learned counsel for the respondent further submits that the averment put forth by the petitioner that the petitioner is not the senior-most candidate to be selected and appointed for the post in the Reserved Category of Schedules Castes is not true and is wrong.

7. I have heard learned counsel for the parties and have gone through the records of the present case through their able assistance.

8. The question which arises for this Court's contemplation and determination in the present petition is whether, once it had been stipulated in advertisement that one of the post was to be filled up from the Reserved Category of Scheduled Castes, whether all the posts could have been filled from the General Category or not. The Court on this point is of the opinion that the Reserved post cannot be filled from a General Category unless and until keeping in view the Instructions, the said Reserved Category post is converted into the General Category.

9. In the present case, nothing has come on record to show that the post which was advertised to be filled up from the category of Scheduled Castes, was converted to one to be filled up from General Category.

10. The only argument which has been raised by the learned counsel for the respondents is that Amit Kumar, who applied for one of the advertised post under the Reserved Category was at Serial No.1 of the merit list but ultimately it was found that he was a Reserved Category Candidate from the State of Haryana and thus was not eligible to compete for the posts advertised by State of Punjab but since he was a Reserved Category candidate that too from Scheduled Caste since he was given the appointment but by treating him as a General Category candidate.

11. Amit Kumar, who belongs to the State of Haryana and has received his Scheduled Caste Certification from the same could not have been given appointment in the State of Punjab as only the Reserved Category candidates belonging from the State of Punjab were eligible.

12. Now, it has already come on record that Amit Kumar has already resigned hence, one post which was advertised to be filled up from the Reserved Category of Scheduled Caste, is still available to be filled

hence, it is directed that the said post be filled in accordance with law from the eligible Reserved Category candidates, who competed for the same post according to the merit.

13. Hence, the present petition is disposed of in the above terms.

14. Pending application, if any, also stands disposed of.

24-02-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO