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

CWP-24016-2016

Date of Decision: 29.10.2025

Sia Ram

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Dr. Suresh Kumar Redhu, Advocate for the petitioner.

Mr. Ravi Partap Singh, DAG, Haryana.

JAGMOHAN BANSAL, J. (ORAL)

1. On 13.03.2023, the following order was passed:

“As per stand taken by the respondents No.1 to 4 , the petitioner figured at serial No.3 in the waiting list and belongs to backward class category. He could not be deputed for promotional course in the absence of vacant seat for backward class category candidate. Mukat Lal was preferred over the candidature of the petitioner as he belonged to schedule class category, for which there was a vacant seat under the said category.

No replication has been filed by the petitioner.

Vide order dated 11.11.2022, learned State counsel was directed to place on record the final order passed by this Court in the writ petition filed by Constable Vinay Kumar, the reference of whom finds mentioned in para No.4 of the affidavit of the State dated 09.03.2019.

Since the writ petition number is not appearing in the said paragraph, therefore, it is desirable to see the judgment passed in the case of aforesaid Constable Vinay Kumar.

Learned State counsel is granted one more opportunity to place on record the copy of final order passed by this Court in the case of Constable Vinay Kumar.

Adjourned to 13.07.2023.”

2. Learned State counsel submits that petitioner retired on 31.07.2019 on attaining the age of superannuation.

3. The dispute involved in the instant petition is confined to deputing the petitioner for lower school course. The petitioner has retired as ESI.

4. A Constitution Bench in ***Syed Yakoob Vs K.S. Radhakrishnan, AIR 1964 SC 477*** and a two judge bench of the Hon’ble Supreme Court in ***Central Council for Research in Ayurvedic Sciences and another Vs Bikartan Das and others 2023 SCC Online SC 996*** have reminded us that there are two cardinal principles of law governing issuance of writ of certiorari under Article 226 of the Constitution of India i.e. (i) High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record; (ii) in a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not.

5. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals. Error of jurisdiction includes order by inferior court or tribunal without jurisdiction or in excess of it or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, High Court must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn

from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised.

6. From the perusal of impugned order dated 11.01.2016, it is evident that petitioner belongs to BC Category whereas Mukat Lal belongs to SC Category. 82 seats were allotted to District Gurgaon from 1992-1994 (up to 30.09.1994). 17 seats out of 82 seats were meant for officials of SC Category as per reservation policy whereas only 16 officials were deputed for lower school course during the said period. In order to clear backlog, the respondent allotted one additional seat for SC Category. Mukat Lal whose name figured at serial No.4 of waiting list was deputed for lower school course on account of additional seat allocated to SC Category. The name of petitioner figured at serial No.3, however, he was not deputed for lower school course because he belongs to BC Category. He has retired as ESI. He, at this stage, cannot be sent for lower school course. Mere deputing for course is not sufficient. Candidate is further bound to pass course.

7. In view of the aforestated factual and legal position, this Court does not find it appropriate to ask the respondent to depute petitioner for lower school course.

8. ***Dismissed.***

(JAGMOHAN BANSAL)
JUDGE

29.10.2025
Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No