

**CWP-24980-2016 (O&M)****-1-**

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

216**CWP-24980-2016 (O&M)****Date of Decision: 06.05.2025****Satbir Singh****...Petitioner**

Versus

State of Haryana and another**...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: - Mr. Shiv Kumar, Advocate for the petitioner

Ms. Palika Monga, Deputy Advocate General, Haryana

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking direction to respondents to consider his candidature under BC-A Category instead of BC-B and declare him successful candidate against the post of Ex-Serviceman Constable (General Duty).

2. The petitioner belongs to Rahbari caste which as per notification of State Government falls under BC-A Category. He joined Indian Army on 25.06.1997 and served upto 30.11.2014. Respondent No.2-Haryana Staff Selection Commission vide advertisement No.8/2015 dated 19.07.2016 (Annexure P-4) invited applications for 860 Male Ex-Serviceman Constable (General Duty). The petitioner filed application under BC-B Category though he belongs to BC-A Category. He was issued admit card on 17.04.2016. He appeared in the written test and was declared successful. He was issued another admit card in September' 2016 for verification/scrutiny of documents-cum-physical measurement test to be



held on 02.10.2016. He, at this stage, realized that he has wrongly opted BC-B Category instead of BC-A. He vide letter dated 26.09.2016 requested the respondent to correct his category. He appeared in the physical measurement test on 02.10.2016. He appeared for interview-cum-personality test on 26.10.2016. He secured 39.4 marks. The cut-off in BC-A was 35.75 marks and BC-B 43.15. If he is considered under BC-A Category, he has secured more marks than cut-off whereas has secured much less marks than last selected candidate under BC-B category.

3. Mr. Shiv Kumar, Advocate for the petitioner contends that there was mistake on the part of petitioner while filing application. The mistake was not incurable. He had secured more marks than cut-off in BC-A Category. He cannot be denied substantial benefit on the ground of minor mistake. It is settled proposition of law that benefit of reservation cannot be denied on technical or procedural grounds. It is a substantial benefit.

4. *Per contra*, Mr. Raman Sharma, Additional Advocate General, Haryana, submits that the petitioner was not a young or immature boy. He is an Ex-Serviceman, thus, cannot claim ignorance. He himself filed application wherein declared himself under BC-B Category. He did not raise objection on receipt of admit card. He appeared in the written test as BC-B. He, at the stage of scrutiny of documents, raised objection and it was not possible at that stage to change his category. The selection process concluded in 2016 and selected candidates joined the service. A period of 9 years has passed away from the date of selection of candidates and at this belated stage, claim of the petitioner cannot be considered. It would certainly disturb selection of last selected candidate under BC-A category. Supreme Court in ***Rajasthan High Court Jodhpur and another v. Neetu Harsh and***



another, (2021) 11 SCC 383 as well as *J&K Public Service Commission v. Israr Ahmad and others, (2005) 12 SCC 498*, has clearly held that a candidate cannot be permitted to change his category and claim benefit of reservation after participating in the selection process.

5. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

6. The petitioner filed application in 2015 and admit card was issued in April' 2016. He appeared in the written test. He did not request the respondent to change his category prior to written test. Terms and conditions of the advertisement are sacrosanct. The petitioner was supposed to opt correct category. He had not sought Government Job for the first time. He is an Ex-Serviceman, thus, cannot claim ignorance. In the advertisement, it was specifically mandated that all original certificates/documents/testimonials of education qualifications and other documents mentioned in the online application form shall be brought at the time of interview. It was further provided that variation in data of online application form and original documents shall be cause of rejection of candidature. The petitioner was required to take print out of registration no. and password screen for future reference. He was also supposed to take print out of application form.

7. From the conjoint reading of terms and conditions of advertisement, it is evident that every candidate was supposed to fill each and every column of the online application form. He was supposed to take print out of application form. Variation in the information/documents filed at the time of application and interview was not condonable. There was



variation in the application form and documents available with the petitioner, thus, his candidature was liable to be rejected. There was no provision in the advertisement permitting change of category.

8. There is another facet of the matter. The petitioner applied for the post in 2015 and selected candidates joined in 2016. A period of 9 years has already expired and at this belated stage it may not be justified to disturb selection of candidate. The selected candidates including last selected candidate under BC-A Category must have settled. There was no lapse on the part of the respondent, thus, equity is not in favour of the petitioner.

9. A two Judge Bench of Supreme Court in ***Israr Ahmad (supra)*** has held that a candidate cannot be permitted to claim benefit of reservation after participating in the examination process. In the said case, the petitioner after passing preliminary examination claimed benefit of reservation. A Single Judge Bench of High Court of J & K held that a candidate was not entitled to benefit of reservation, however, a Division Bench extended benefit of reservation. The Apex Court reversed judgment of Division Bench holding that a candidate cannot be permitted to claim benefit of reserved category after last date of submitting application. The relevant extracts of the judgment read as :

“3. The first respondent thereafter challenged the selection by filing a writ petition and the learned Single Judge of the High Court of Jammu and Kashmir held that the first respondent was not entitled to the benefit of reservation based on SRO 126 of 1994 as he had not indicated in his application for the preliminary examination that he was entitled to such benefit. The writ petition filed by the first respondent was dismissed and he challenged the same by way of LPA (SW) No. D- 29 of 2002 and the Division Bench of the



High Court of Jammu and Kashmir held that the first respondent herein in fact possesses the eligibility for being considered in the reserved category even before the date of advertisement and he submitted his proof only later and that by itself did not disentitle him from claiming the reservation. Accordingly, the LPA was allowed and the direction to treat him under the reserved category was issued. This is challenged before us by the Public Service Commission.

4. *Learned counsel for the Commission submits that as the last date for submitting the application was 16-3-1999 the respondent did not produce the certificate claiming reservation nor did he indicate in the application that he belongs to that category. It was submitted that several other applications of similar nature were rejected by the Commission and the respondent's application also was treated alike and the Division Bench erred in coming to the conclusion that he was entitled to get reservation. Counsel for the respondent on the other hand pointed out that though the first respondent did not avail of the benefit of reservation when he submitted the application for the preliminary examination he had submitted the application for the main examination in which he had clearly shown that he was entitled to get reservation as per SRO 126 of 1994 dated 20-6-1994 and he had also produced the certificate along with the application for the main examination. It is submitted that he had claimed the reservation for the main examination and he should have been treated as a reserved candidate in the main examination.*

5. *We have considered the rival contentions advanced by both the parties. The contention of the first respondent cannot be accepted as he has not applied for selection as a candidate entitled to get reservation. He did not produce any certificate along with his application. The fact that he has not availed of the benefit for the preliminary examination itself is sufficient to treat him as a candidate not entitled to get reservation. He passed the preliminary examination as a general candidate and at the subsequent stage of the main examination he*



cannot avail of reservation on the ground that he was successful in getting the required certificate only at a later stage. The nature and status of the candidate who was applying for the selection could only be treated alike and once a candidate has chosen to opt for the category to which he is entitled, he cannot later change the status and make fresh claim. The Division Bench was not correct in holding that as a candidate he had also had the qualification and the production of the certificate at a later stage would make him entitled to seek reservation. Therefore, we set aside the judgment of the Division Bench and allow the appeal.

No costs.”

10. The case of the petitioner is squarely covered by aforesaid judgment. In the case in hand, the petitioner neither before the last date nor before the date of examination approached authorities for correction of his category. The petitioner appeared in the exam under BC-B Category and at the stage of scrutiny of documents, claimed change of category. The claim of the petitioner, at that stage, could not be countenanced.

11. In the wake of above discussion and findings, this Court is of the considered opinion that the present petition *sans* merit and deserves to be dismissed. Accordingly, dismissed.

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

(JAGMOHAN BANSAL)
JUDGE

06.05.2025
Mohit Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No