



CWP-11130-2001 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Serial No.210

CWP-11130-2001 (O&M)
Decided on: 26.02.2026

Rajesh Kumari

. . . Petitioner

Versus

State of Haryana and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. R. K. Malik, Senior Advocate with
Mr. Anshul Labana, Advocate
for the petitioner.

Mr. Aakash Singla, Additional Advocate General, Haryana.

TRIBHUVAN DAHIYA, J.(ORAL)

The petition has been filed *inter alia* seeking a writ of *certiorari* quashing the memo dated 26.07.2001, whereby the petitioner was terminated from service on account of being less meritorious. Further, a writ of *mandamus* has been sought directing the respondents to consider the petitioner, who belongs to Ex-Servicemen (ESM) BC-B category, for appointment as she has secured more marks than the last selected candidate under ESM General category.

2. Learned senior counsel contended that the petitioner was appointed as JBT Teacher vide letter dated 06.10.2000, Annexure P-3. However, her services were terminated without issuing any show cause notice or affording an opportunity of hearing vide impugned order dated 26.07.2001. The order is violative of the Principles of Natural Justice. He further contended that some candidates belonging to BC-B category had obtained higher marks than the last selected candidate from ESM General category, but the principle

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of migration was not applied where under such candidates were required to be shifted to General category and candidates like the petitioner were required to be considered against the posts falling vacant under BC-B category.

3. Learned State counsel however contended, the reason for termination of the petitioner's service was that she had wrongly claimed herself to be from ESM General category which resulted in issuing the letter of appointment, dated 06.10.2000. Satyapal Singh and nine others who belonged to Dependent of Ex-Serviceman (DESM) General category, filed CWP-2720-2001 before this Court against the appointment of respondents no.3 to 37, wherein the present petitioner was impleaded as respondent no.31. It was on the ground that the respondents had been wrongly selected against the posts reserved for ESM General category, though they belonged to DESM BC-B category. The petition was disposed of vide order dated 26.02.2001, with a direction to the respondents to consider and decide the representation by passing a speaking order. In compliance thereof and after examination of entire record, it was found that the private respondents therein, including the petitioner, did not belong to ESM General category and could not have been appointed as such. Accordingly, a show cause notice was issued to the petitioner, dated 03.07.2001, asking her to explain as to why her appointment should not be cancelled. The notice was not served, and the assertion by the respondents is that it was knowingly not received by the petitioner. However, considering the facts regarding her claim she was terminated from service vide impugned order dated 26.07.2001. Further, it was submitted by the learned counsel that the petitioner was rightly terminated since in DESM BC-B category she secured 45.67 marks, whereas the last selected candidate had

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secured 48.54. Accordingly, she is not entitled to be considered for appointment.

4. Heard.

5. The facts asserted in the written statement, based upon which learned State counsel has made the submissions, have not been disputed by the petitioner by filing any counter-affidavit or placing any document on record to contest the assertions. Therefore, it is apparent that the appointment letter, dated 06.10.2000, was issued to her by wrongly accepting her candidature under ESM General category. Realising the mistake, the petitioner's candidature was considered under the category she belonged to, DESM BC-B, and being lower in merit she could not be given the appointment as such. In these circumstances, the respondents had no option but to cancel the appointment and terminate her services vide memo dated 26.07.2001. Although it cannot be said that Principles of Natural Justice were strictly complied with prior to passing the impugned order of termination, but this Court is not inclined to accept the challenge to termination on that ground in the peculiar facts and circumstances of the case. It remains undisputed that the petitioner was a respondent in the earlier petition, CWP-2720-2001, which was filed challenging her appointment, along with that of others, on the ground that she had wrongly been appointed under ESM General category. It was only after ascertaining the category and finding that she actually belonged to a different category, the respondents decided to take action and cancel her appointment. Also, it is not in dispute that even on merit the petitioner could not have been appointed as JBT teacher in DESM BC-B category, to which she belonged, since the last selected candidate in the category secured 48.54 marks, and her score was far lower, 45.67. Still further,



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fifteen per cent reservation to ESM category provided in the advertisement is a horizontal reservation, which would not entail *inter se* migration of candidates. And it is not the case that the posts reserved for horizontally reserved category have remained vacant. Accordingly, the submissions by learned senior counsel are without substance.

6. The reliance placed by him on the Division Bench judgment in CWP-9863-1998, titled *Ravinder Kaur v. State of Haryana and others*, also does not advance the petitioner's case. Although the petitioner's termination from service therein was set aside on account of violation of the Principles of Natural Justice, the Court took notice of the fact that she had not been accused of making any mis-representation or deceiving the respondents in issuing the order of appointment. This is not the case so far as the instant petition is concerned, as it was only on account of mis-representation and wrong submission of claim as ESM General category candidate that the petitioner was offered the appointment.

7. In view thereof, finding no merit in the petition, it stands dismissed.

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

26.02.2026

Mehak

**(TRIBHUVAN DAHIYA)
JUDGE**

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