

CWP-7873-2021

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

CWP-7873-2021Date of Decision : **19.03.2026****SUNIL KUMAR**

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. D.S.Kahlon, Advocate,
for the petitioner.

Mr. Tejinder Pal Singh Walia, AAG, Punjab
for respondents no.1 and 2.

Mr. Sumit Jain, Advocate,
for respondent no.3.

Ms. Ekjot Sandhu, Advocate,
for respondent no.4.

None for respondent no.6.

KULDEEP TIWARI, J. (Oral)

1. Through the instant petition, as cast under Article 226/227 of the Constitution of India, an appointment order issued in favour of private respondents no.4 to 6, dated 10.03.2021 (Annexure P-9), has been put to challenge by the petitioner on the ground that respondent no.4, has wrongly appointed against the reserved post for BC (ESM), as he does not belong to such category.

2. Further a *mandamus* has been sought to be passed upon



District and Sessions Judge, Pathankot (respondent no.3), to appoint him by removing respondent no.4, as he is an eligible candidate, and has applied under the above said category.

3. The petitioner after serving 19 years with the Indian Army retired on 31.08.2018. Respondent no.3, issued a public notice/advertisement (Annexure P-3) inviting the application to participate in the recruitment process for the posts of Class-IV employees. As per the public notice, 01 post was notified for Process Server under ESM category, and 03 reserved posts for peons [01 post each for Handicapped, B.C.(ESM) and SC (sportsman)]. The petitioner duly participated in the selection process, and final result was declared, wherein the name of respondent no.4 appeared as selected candidate against the post reserved for BC (ESM), whereas, he had applied as BC category candidate. However, no post reserved for BC category was advertised.

4. Referring to the above, learned counsel for the petitioner submits that the result (Annexure P-9) with regard to respondent no.4, be declared as null and void, and the petitioner be appointed against the said advertised post reserved for BC (ESM).

5. The submissions, as made by learned counsel for the petitioner, were strongly opposed by learned counsel for respondent no.3. He submits that the instant petition has been filed by concealing material facts, and even the complete advertisement has not been placed on record.

The complete advertisement has been annexed as Annexure R-1, with the

reply and while referring to Note:2 as appended herewith, it is argued before this Court that respondent no.3 is well within the authority, to fill-up the post from other categories, in case no suitable candidate is available from the reserved category.

6. He, finally, submits that the petitioner is not qualified, as he could not obtain the minimum marks, as per the criteria laid down by the Selection Committee, therefore, the instant petition is not maintainable on this sole ground.

7. Before this Court embark upon the submissions, as made by learned counsel for both the parties concerned, it is imperative to have a glimpse upon the relevant facts of the matter.

8. The posts of Process Server and Peons were advertised through a public notice/advertisement dated 04.02.2011 (Annexure R-1). The relevant notes which are appended with the advertisement, are extracted hereinafter:-

- “1. X X X X X X X
2. If no suitable candidate is available from the reserved category, then the post shall be filled up from the other category.
3. X X X X X X X
4. X X X X X X X
5. Number of the posts may be increased or decreased.
6. X X X X X X X
7. Merely satisfying the eligibility criteria do not entitle the candidate to be selected.”

9. The above Note: 2, vividly postulates that the Selection Committee is empowered to fill-up the reserved category post, in case no suitable candidate is available in the concerned reserved category. The



District and Sessions Judge concerned, constituted a committee comprising of District Judge, Family Court, Pathankot, and Civil Judge (Sr.Division), Pathankot, to conduct the interview of candidates for the posts of peon. The said Committee had laid down a criteria to be adopted for such selection. As per the report of the Committee, the candidature of all the candidates was evaluated on the basis of the following criteria on the scale of ten each:-

1. General Appearance
2. Orderly Aptitude
3. Ability to comprehend instructions
4. Hygiene/Cleanliness
5. Special skills.

10. The Selection Committee has further decided that the candidates belonging to the General Category must secure at least 30 marks out of 50 marks to qualify the interview, and candidates belonging to reserved category must secure at least 25 marks out of 50 marks to qualify the interview.

11. In the instant case, the fact which goes to the root of the matter, is that the petitioner has secured only 22 marks out of 50 marks, against the minimum qualifying 25 marks as prescribed for reserved category. Therefore, the Selection Committee did not recommend the name of the petitioner as successful candidate, for the post of Peon. Even 02 other candidates who applied under the similar category, i.e. BC (ESM), were not able to qualify by securing minimum qualifying 25 marks. Therefore, invoking Note: 2 of the advertisement (*supra*), the Selection Committee recommended the name of respondent no.4 from the

BC category, who secured highest marks, i.e. 41 marks out of 50 marks.

12. The petitioner has not challenged the selection process, in the instant petition. The sole contention raised is that, respondent no.4, has been wrongly appointed under the reserved category, meant for BC (ESM), despite him not belonging to such category. As already discussed above, in pursuance of the advertisement (*supra*), the Selection Committee is empowered to fill-up the reserved category post, in case no suitable candidate is available in the concerned reserved category. Since the petitioner himself was not able to secure minimum qualifying marks in the interview, therefore, he was not found eligible for selection to the post.

13. In view of the above, this Court does not find any illegality and perversity in the action of respondent no.3, in appointing respondent no.4 vide order dated 10.03.2021, to the post of peon.

16. Consequently, the instant petition is, hereby **dismissed**.

17. All pending application(s), if any, also stand **disposed** of accordingly.

March 19, 2026
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No