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RAVINDER SINGH v. STATE OF HARYANA,(2022-1)205 PLR 467

PUNJAB AND HARYANA HIGH COURT

Before: Mr. Justice H.S. Madaan.

RAVINDER SINGH - Petitioner,

Versus

STATE OF HARYANA and others - Respondents.

CWP-17917-2021

Constitution of India, Article 226 - Petitioner had applied for the post of Shift Attendant under BCA category - He had taken up written examination and participated in the process of scrutiny of documents and interview but was not successful as per result declared - Now when the entire selection process is complete, the petitioner has come up with a prayer for changing his category to Scheduled Caste, which cannot be allowed - It is not his sweet will to apply under a particular category, take up written examination and interview under that category and then realizing that he has got better chances of selection under a different category, then asking for change of his category, even though the selection process is complete.

Mr. B.S. Mittal, for the petitioner. Mr. Sharad Aggarwal, AAG, Haryana.

H.S. Madaan , J. - (7th October, 2021) - Case taken up through video conferencing.

2. This writ petition has been filed by petitioner Ravinder Singh against respondents i.e. State of Haryana and 02 others, praying for issuance of a writ in the nature of certiorari for quashing order dated 03.10.2020 (Annexure P-10) passed by respondent No.2-Secretary, Haryana Staff Selection Commission, Panchkula, vide which the claim of the petitioner for considering his candidature for the post of Shift Attendant under the Scheduled Caste category has been wrongly rejected by ignoring order dated 11.07.2019 passed by this Court in CWP-25716- 2018 in similar case, copy Annexure P-11; further craving for issuance of writ of mandamus directing respondent No.2 to consider the petitioner in Scheduled Caste category in the light of Scheduled Caste certificate issued by the State Government.

3. According to the petitioner, he had applied for the post of Shift Attendant in UHBVNL/HVPNL/DHBVNL, vide advertisement No.3 of 2016 against category No.01 issued on 20.02.2016 in BCA category; it was so done by him by way of online application; he was allotted roll number and he took written examination on 29.05.2016, successfully clearing it; thereafter appeared for scrutiny of documents and interview on 03.09.2017 and 04.09.2017; according to the petitioner, he belongs to Rai Sikh community, which is recognized as a Scheduled Caste/Scheduled Tribe under the Constitution (Scheduled Castes) Order 1950 etc.; that the petitioner duly informed about the Scheduled Caste certificate issued by Tehsildar, Sirsa dated 03.06.2016 to office of respondent No.2 requesting that he may be considered under Scheduled Caste category instead of BCA category but no response was received; the petitioner served a legal notice upon respondent No.2 on 20.04.2019 but without getting any response; that on 23.05.2019 office of respondent No.2 supplied the information under RTI Act, informing that petitioner had secured 76 marks in written examination and 11 marks in viva-voce, total 87 marks; that detailed result of the advertisement for Shift

Attendant was not declared on account of pendency of the litigation before the High Court and it was declared vide notice dated 07.11.2019; the petitioner had obtained 87 marks in total whereas the cut off list for Scheduled Caste category candidate was 89 and for waiting list candidate, it is 87 marks; the petitioner was aspirant for the post of Shift Attendant under Scheduled Caste category but he was not considered by respondent No.2; the petitioner had filed CWP No.3099 of 2020 with a prayer to consider him under Scheduled Caste category against the post of Shift Attendant issued vide advertisement No.3/2016; on 05.02.2020, this Court disposed of the writ petition with a direction to respondent No.2 to decide legal notice dated 20.04.2019 within a period of 04 weeks, however, no speaking order was passed by respondent No.2; the petitioner filed a contempt petition, thereafter, respondent No.2 passed speaking order dated 03.10.2020, rejecting the claim of the petitioner; still feeling aggrieved, the petitioner has brought the present writ petition.

4. Learned State counsel was asked to assist the Court and he has accordingly done so.

5. I have heard learned counsel for the petitioner besides going through the record.

6. Writ jurisdiction under Article 226 of the Constitution of India is to be exercised in exceptional circumstances and not in routine. Here I do not see any reason to issue any writ as prayed for. As per his own admission, the petitioner had applied for the post of Shift Attendant under BCA category. He had taken up written examination and participated in the process of scrutiny of documents and interview but was not successful as per result declared on 08.03.2019. Now when the entire selection process is complete, the petitioner has come up with a prayer for changing his category to Scheduled Caste, which cannot be allowed. It is not his sweet will to apply under a particular category, take up written examination and interview under that category and then realizing that he has got better chances of selection under a different category, then asking for change of his category, even though the selection process is complete.

7. I find force in contention of learned State counsel that if such type of request is allowed, that would unsettle the whole selection process and the final selection made. As pointed out by learned State counsel, the eligibility of a candidate is to be seen on a particular date fixed as 04.04.2016, whereas, the Scheduled Caste certificate put-forward by the petitioner is dated 03.06.2016, which means that it was prepared after the cut off date for eligibility, therefore, cannot be taken into consideration. Even otherwise, the marks secured by the petitioner were less than that of last selected candidate in his BCA category.

8. Learned counsel for the petitioner has relied upon judgment by a single Bench of this Court delivered in CWP-25716 of 2018 on 11.07.2019, wherein the respondent in the written reply had though stated that the Commission was of the view that since there was no negligence on the part of the candidate/petitioner and it is the constitutional amendment which has led to change in category of the petitioner, therefore, the Commission was ready to consider the candidature of the petitioner in Scheduled Caste category instead of BCA category in compliance with Government of India notification dated 09.05.2016. In view of that reply, observing that grievance of the petitioner had been redressed directing that result be declared and necessary action be followed, the writ petition was disposed of. But one thing has to be taken into view is that it comes out from the perusal of the order, the selection process was still going on when change of category had been allowed. Here the entire selection process is complete and as such, change of category cannot be allowed to petitioner. This judgment is not of much help to the petitioner.

9. The instant writ petition is doomed for failure and the same stands dismissed accordingly.

R.M.S.

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Petition dismissed.

Tags: [\(2022-1\)205 PLR 467](#), [2022 PLRonline 7854](#), [Appointment - Change in category](#), [COI Art. 226](#), [RAVINDER SINGH v. STATE OF HARYANA](#), [Service matter](#)