



CWP-6066-2017

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

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CWP-6066-2017 (O & M)
Date of decision: 21.01.2025

Sapna

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Raghav Bali, Advocate,
for the petitioner.

Mr. Satnam Preet Singh Chauhan, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for considering the candidature of the petitioner to the post of Staff Nurse against the category of SC(M&B), instead of ESM SC(M&B).

2. The petitioner, hailing from an economically disadvantaged background and lacking personal access to a computer or internet connectivity, had in response to the public notice dated 25.07.2016, got submitted her application and uploaded the SC Category Certificate with the assistance of a computer cafe operator, who inadvertently selected the category as ESM SC (M&B) instead of SC (M&B), as averred in para 4 of the writ petition, not been specifically denied in the written statement.

3. Facts stated in para 7 of the petition, not controverted by the respondents, the result was announced on 10.10.2016, as per which she obtained 292 marks in the written examination and upon being called,



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appeared for an interview on 09.12.2016, when she apprised the Interview Authority of belonging to SC (M&B) and not to the category erroneously selected in the online application, thus she had not uploaded an ESM SC (M&B) certificate but one of the category to which he belonged. On the same day, she submitted a written representation at the spot and was assured of her consideration under the concerned category. As advised by officials of respondent No.4 during her visit to the office, she furnished an affidavit, on 13.12.2016, relevant portion of the said affidavit reads thus:

1. That I am resident of above said address.
2. That I had applied for the post of Staff Nurse in SC (M & B) Category. But inadvertently, it had been filled as ESM SC (M & B) into the column of category by nil which is actually in SC (M & B) Category.
3. That my above said post Nurse SC (M & B) is only correct and the same be treated as correct.
4. That my above said statement is correct and according to belief.”

4. Thereafter, she submitted representations dated 15.12.2016, Annexure P-9 and 06.03.2017 Annexure P-10 for rectifying her category, which have not evoked response, as mentioned in para 9 of the petition, even though receipt whereof has been admitted to be matter of record in the corresponding para of the written statement.

5. Undeniably, the last selected candidate in SC (M & B) Category, namely, Kulwinder Singh, assigned Sr. No.512, had obtained 283 marks, as is also evident from the result (Annexure P-8) as stated in para 10 of the petition.

6. Hon’ble the Supreme Court in **Vashist Narayan Kumar vs. State of Bihar**¹, held that penalising a candidate for a genuine and

¹ 2024 SCC OnLine SC 2



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unintentional mistake in the application form would be unjust, noting that the error may have stemmed from the potentially distracting environment of the cyber café, and was akin to making a mountain out of molehill leading to the cancellation order being set aside in acknowledgment of his rightful completion of the selection process observing that , “In the instant case, we cannot turn a Nelson's eye to the ground realities that existed. In the order dated 22.11.2021 in C.A. No. 6983 of 2021 [*Prince Jaibir Singh v. Union of India*], this Court rightly observed that though technology is a great enabler, there is at the same time, a digital divide.”

7. This Court in **Poonam Devi vs. State of Haryana and others**, CWP-11269-2021 decided on 26.07.2024, a similarly case, allowed the petition observing that “the factum of the petitioner having uploaded the EWS certificate and not ESM, by itself unequivocally establishes her intention to be considered in the said category, however, the mistake occurred in selecting a wrong option, which was due to her having filled the application form with aid of cyber cafe, for the correction of which, since there was no provision in the website.”

8. The exclusion of the petitioner from selection under the ESM category as stated in the written statement being non submission of the certificate substantiating the same, on the other hand, she having instead uploaded that of the SC (M&B) category also fortifies her intent to apply against the latter. She would have gained nothing by choosing a category of which she did not have a certificate but despite notifying the interview committee and submitting an affidavit per directive the uncorrected error makes her ouster unjust.



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9. Taking stock of the totality of facts, the present petition is disposed of with a direction to consider the candidature of the petitioner under SC(M&B) category and in case she falls within the merit, she be offered appointment with only the notional benefits. Needful be done within a period of two months.

21.01.2025

parveen kumar

(AMAN CHAUDHARY)
JUDGE

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