

2025:PHHC:042396



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

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**CWP-8703-2025**  
**Date of Decision: 27.03.2025**

**RAJESH KUMAR**

... Petitioner

VERSUS

**STATE OF HARYANA AND OTHERS**

... Respondents

**CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.**

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Present: Mr. Sukhvir Singh Sahu, Advocate  
for the petitioner.

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**VINOD S. BHARDWAJ, J. (ORAL)**

Challenge in the present petition is to the order dated 07.01.2025 passed by respondent No.3, Secretary, Haryana Staff Selection Commission, whereby the claim of the petitioner for being considered under the EBPG category has been declined by the respondents.

Learned counsel for the petitioner contends that the Government of Haryana had issued a notification dated 27.09.2013 vide which 10% reservation was provided in jobs under Government/Government Undertaking and Local Bodies as well as in Educational Institutions for Economically Backward persons in the General category of the State. The petitioner belongs to Economically Backward Category and is entitled to the benefits as per the said notification and also possessed the certificate issued by the Competent Authority in this regard on 23.06.2017.

Learned Counsel contends that respondent No.3-Haryana Staff Selection Commission (hereinafter to be referred as "Commission") issued an

Advertisement No.4 of 2017 inviting online applications for various posts including the post of Heavy Vehicle Drivers, category No.1. The last date of the submission of the application form as per the said Advertisement was 24.06.2017, however, he could not apply under the said category because of an interim order passed by this Court against the reservation. Apprehending that his candidature might be cancelled, he submitted his application under the General Category instead of EBPG category. However, the Division Bench later clarified that the posts which were stayed on account of the interim order of this Court can be filled up in accordance with the terms and conditions of the Advertisement. He submits that the respondent No.3-Commission eventually declared the result, after completing the selection process, however, despite the petitioner having secured more marks than the last recommended candidate under the EBPG category, his recommendation was declined on the ground that the petitioner had not applied under the EBPG category. It is vehemently argued by the counsel for the petitioner that benefit of change of category has even though been granted to similarly situated candidates but the same benefit has been declined to him.

He further contends that the petitioner had earlier approached this Court vide CWP No.19262 of 2020 for seeking a direction to respondent No.3-Commission to consider his candidature for the post of Heavy Vehicle Driver against Category No.1 in Advertisement No.4 of 2017 under the EBPG Category in General Caste. The said petition was disposed of by this Court vide order dated 13.11.2024 with a direction to the respondents to consider and decide his representation dated 28.05.2018 alongwith the reminder dated 29.07.2019.

Vide order dated 07.01.2025, the representation of the petitioner was dismissed by the respondent-Authorities by assigning the following reasons: -

*“Further, it is submitted that the petitioner namely Rajesh Kumar son of Rajpal had applied for the post of Heavy Vehicle Driver against Advt. No. 4/2017, category No. 01 dated 18.05.2017 under General Category. On receipt of application for the post in question, the petitioner was issued admit Card bearing Roll No. 1704030544. Thereafter, the written examination (OMR SHEET) for the post in question was conducted on 06.08.2017 and declared the result of written examination on 10.11.2017 and called the shortlisted candidates including the petitioner duly appeared for scrutiny of documents on 10.12.2017 and found eligible under General category and also cleared the Driving-cum-Proficiency Test. Further, the Commission again issued notice for scrutiny of documents-cum-Driving Proficiency Test on 13.12.2017 and scrutiny of documents -cum-Proficiency Test was held on 12.12.2017. Thereafter, the commission issued a notice on 12.02.2018 and called the shortlisted candidates for interview which were held from 25.02.2018 to 01.03.2018 in commission office. Furthermore, on the basis of written examination, scrutiny of documents cum driving proficiency test and interview/viva voce for the post of Heavy Vehicle Driver of Transport Department Haryana against Advt. No.4/2017 category No. 01, the commission declared the final result (partial) for the post in question was declared on 03.03.2018. After that the commission declared the final result of EBPG category on 06.08.2018 and again declared final remaining result on 03.06.2019 and the petitioner namely Rajesh Kumar bearing Roll No.1704030544 secured total 119 marks (106 in written marks, 13 in interview) and as per final result (remaining) dated 03.06.2019, the final cut off General category was 128 marks (main) and 126 marks (waiting) and due*

to lesser marks the petitioner was not selected in General Category.

Further, with regard to the main contention of the petitioner to consider him in EBPG category. In this regard, it is submitted that the petitioner cannot be considered under EBPG Category as the same is against the terms and conditions of advertisement for the post in question. Furthermore, it is submitted that the petitioner is stopped by his own conduct as he has mentioned General against the relevant column of category and "None" against the relevant column for reservation while filling the online application form. Further, the respondent commission has allotted Roll No. 1704030544 under General category, against the category under which the petitioner applied for post in question by filling application form. It was clearly mentioned under the head General instructions at page No.2 of the Advt. No. 4/2017 that:-

"7. Candidates are advised to fill their application form carefully such as Name, Father's name/Mother's name, date of birth and category, qualification, photo, signature and fee. etc. After final submission of application form, no change will be allowed. Candidate will be responsible for any mistake in the data of application form and fees paid by him/her. There is no any correspondence will be entertained in this regard."

That under the head "Note" at page No. 4 of the Advt. No. 4/2017 also it was clearly mentioned that the candidate should fulfill the eligibility conditions on the last date of application. The relevant portion of the paragraph in the advertisement is reproduced as under:-

"iii Candidates applying for a post must ensure that they fulfill all the eligibility conditions on the last date of application. If on verification at any time before or after the written examination or interview or appointment, it is found

*that they do not fulfill any of the eligibility condition or it is found that the information furnished is false or incorrect their candidature will be cancelled"*

*That it is submitted that the petitioner has duly signed the declaration mentioned in the application form and the translated relevant portion of same is reproduced as under:-*

*"7. I hereby declare that all the details given in this application are true, complete and correct according to best of my knowledge and belief. I understand that no information has been concealed/fake and if anything is found concealed or false then my candidature/appointment can be cancelled.*

*Sd/-*

*(Signature of candidate with date)"*

*Hence, the petitioner is bound by the undertaking and declaration as mentioned above and is not entitled for any relief from the Hon'ble Court as he failed to supply correct information in the application form*

*Further, it is pertinent to mention here that the petitioner had applied for the post in question and the respondent commission has conducted the written examination for the said post and as per result for the written marks candidates including the petitioner was called for scrutiny of documents. The petitioner has appeared for the scrutiny of documents on 10.12.2017 and was found eligible under General category. It is further worthwhile to mention here that the petitioner at the time of scrutiny of documents neither annexed any EBPG certificate nor claimed the same while signing the scrutiny form.*

*Furthermore, it is worthwhile to mention here that the petitioner appear for the scrutiny of documents on 10.12.2017 and signed the declaration as mentioned in the scrutiny form which is also reproduced as under: -*

*"I hereby declare that all statement made in the above format regarding educational qualification and experience etc to which I have submitted the above documents/ certificates are true & complete to best of my knowledge, belief, record and nothing has been concealed therein. In the event of any information being found/detected false, incorrect, incomplete and ineligible before or after the interview/selection/appointment then my candidature may be cancelled and any legal action as per law can be initiated/taken against me.*

*Total No. of documents uploaded 01 to 11.*

*Sd/-*

*Further, it is further submitted that the Hon'ble High Court vide order dated 22.05.2020 passed in CWP No.21872 of 2018 titled as Vinay Sharma vs. State of Haryana and others decided the similar situated matter, the operative part of order dated 22.05.2020 is reproduced as under: -*

*"iii) It would also be pertinent to take note that the mistake as regards mentioning of category in the case of Sarla (supra) was permitted on share compassion and sympathy. The Division Bench observed that the petitioner namely Sarla was a poor widow, resident of a village and was working as an Angnawari Worker while submitting an application for the post of Supervisor (Female). However, in the present case the petitioner possesses the qualifications of B.Ed as also M.Sc. (Chemistry). Petitioner is an educated person and it would be construed that he had read each and every term and condition of the advertisement and had understood the same. The candidature of the petitioner for the post of PGT (Chemistry) would have to be considered strictly as per the terms and conditions of the advertisement. Petitioner had clearly indicated in his online application*

*form that he belonged to the General category. He had chosen not even to upload the scanned copy of the EBPG certificate along with the online application form as was the requirement under the advertisement. Under such circumstances petitioner cannot claim any parity on the strength of the judgment rendered in the case of Sarla (supra).*

*For the reasons recorded above, this court does not find any merit in the instant writ petition.*

*Petition dismissed.*

*Pending application, if any, also stands disposed of”*

*However, it is pertinent to mention here that in view of above submissions and judgments the prayer of petitioner to change his category cannot be allowed. Further the petitioner cannot be considered for the post in question due to lesser marks under General Category (under which petitioner has applied for the post in question and thus he was rightly considered under General category which was mentioned by the petitioner while filling the application form and not in EBPG category as it would be against the interest of other candidates who have participated in the selection process fairly.”*

Referring to the above, it is argued by the counsel for the petitioner that the petitioner is a victim of circumstances and was under a bonafide impression that the candidature of the petitioner might be cancelled on account of the interim order passed by the Single Bench of this Court that he did not submit the application under the EBPG category. He has emphatically relied upon the order dated 31.10.2018 passed in CWP No.14863 of 2017 titled as “Sarla Versus State of Haryana and Others” as well as the order dated 22.12.2017 passed in CWP No.29341 of 2017 titled as “Poonam Versus

Haryana Public Service Commission” and also on the interim order passed by the Division Bench in CWP No.18514 of 2016 titled as ‘Kalindi Vashishtha Versus State of Haryana and Others’ dated 18.05.2018.

No other argument has been addressed and no other judgment cited by the learned counsel for the petitioner.

I have heard the learned counsel for the petitioner and have also gone through the documents available on case file with his assistance.

The undisputed facts that emerge from a perusal of the petition as well as the annexures and as also from the arguments advanced by the counsel for the petitioner are that a notification providing 10% reservation for EBPG category had been issued by the Government of Haryana and that a certificate in this regard had been issued in favour of the petitioner on 23.06.2017. It is further undisputed that the last date for submission of application form under Category No.1 in Advertisement No.4 of 2017 was 24.06.2017 i.e. after the date of the issuance of EBPG Certificate in favour of the petitioner.

It is also undisputed that the petitioner never opted or submitted the application under the EBPG category and had rather submitted his application under the General Category.

It also remained uncontroverted that at none of the stages in the process of selection, the petitioner claimed his candidature to be considered under the EBPG category. No such certificate was produced at the time of scrutiny of documents as well. The same has been specifically noticed by the Competent Authority while rejecting the representation submitted by the petitioner.

In the said undisputed factual background, it would now be apposite to make a reference to the judgments relied upon by the counsel for the petitioner.

Adverting firstly to the order dated 22.12.2017 passed in the matter of *Poonam (Supra)*, the contentions of the petitioner recorded therein were that the EBPG certificate had not been issued in her favour by the Government of Haryana for a long duration, hence, she was not in possession of the said certificate at the time of submitting the application form.

I find that the argument raised by the counsel for the petitioner that the present case is similar to the case of *Poonam (supra)* is clearly an attempt to mislead this Court inasmuch as the said judgment is not applicable to the facts and circumstances of this case at all. It is not the factual scenario in the instant case that the Government had stopped issuing the EBPG certificates on account of any administrative instructions and/or Executive orders. As a matter of fact, the case of the petitioner herein is that he was actually issued a certificate under the EBPG category and was in possession thereof. Thus, in the former scenario, the candidate was denied the benefit of EBPG category certificate on account of the State not issuing the certificate the same cannot be at par with the present case where the candidate admits being in possession of the certificate prior to the last date for submission of the application.

So far as reliance upon the order dated 31.10.2018 in the matter of *Sarla (supra)* is concerned, the facts of the said case were specifically to the effect that the petitioner therein had applied under the Economically Backward Persons in General category and had also appended the said certificate, however, while filling the online application form, she selected the category of

BC 'B'. It was thus not a case where the certificate had not been submitted but rather was a case of mistaken selection of a reserved category. The documents in support thereof had been actually appended by the petitioner therein.

The said order also would not be applicable to the facts and circumstances of the present case. Thus, the grand argument to the effect that the abovesaid cases are similar or that the petitioner herein is identically placed in any of the said two categories is grossly misconceived.

Now advertng to the order dated 18.05.2018 passed in CWP No.18514 of 2016. Insofar as the said order is concerned, the same is more of a clarification on an application filed by various persons as to whether the interim order passed by the Single Bench would debar the State from considering the candidature of the persons who had already applied under the EBPG category pursuant to the Advertisements that had been issued prior to the interim order and the same can be read no further.

It was also specifically stated by the respondent-State in the affidavit filed before this Court that more than 600 candidates had actually applied under the EBPG category and hence, the contention of the petitioner that he was under some unilateral impression cannot be accepted as a valid understanding of the circumstances.

A misconceived notion of the petitioner cannot be a sufficient ground to set aside an order which is otherwise in accordance with law. In reality, under the guise of the present writ petition, the petitioner wants to change his category from General to the EBPG. Such change of the category, after the selection process has already been completed, is impermissible as per the settled position of law laid down by the Hon'ble Supreme Court in the

matter of '**J & K Public Service Commission Versus Israr Ahmad**' reported as **(2005) 12 SCC 498**. The relevant part of the said judgment is reproduced hereinafter below:

*“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.”*

Further, counsel for the petitioner has not been able to point out any illegality or impropriety in the order that has been passed by the Competent Authority by making a reference to the specific terms and conditions of the Advertisement.

In the absence of any illegality, perversity or impropriety in the impugned order, sympathy alone cannot pave way for doing what the law prohibits. A request for change of category after finalization of the selectin

process cannot be accepted. Even if the argument of the petitioner to the effect that it was a mistake is accepted, yet, the position in law does not extend any benefit for such unilateral mistakes. The totality of circumstances, including his approaching the Court only after conclusion of the selection process rather reflects that the argument is an afterthought and that too on becoming aware of the final results. It is thus a belated attempt to seek consideration by claiming a change in Category, which law does not permit.

Consequently, the present petition is dismissed in *limine*.

**MARCH 27, 2025.**

*Rajender*

**(VINOD S. BHARDWAJ)  
JUDGE**

*Whether speaking/reasoned* : Yes/No

*Whether reportable* : Yes/No