



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CWP-9826-2022  
Date of decision: 08.05.2025

MOHAN LAL .....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS .....Respondents

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

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Present: - Mr. S.S. Sahu, Advocate  
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

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

Challenge in the present writ petition is to the order dated 28.02.2022 (Annexure P-12) passed by the respondent-Haryana Staff Selection Commission whereby the representation dated 24.10.2019 submitted by the petitioner had been dismissed and claim of the petitioner for being recommended to the Department for appointment in the BC-‘B’ category has been declined.

2. The undisputed facts which emerge from the record are that the respondent-Haryana Staff Selection Commission had advertised 10 posts of Junior Draftsman vide advertisement No. 11 of 2015 dated 01.12.2015 against Category No. 08. Out of these 10 posts, there were two posts reserved for BC-‘B’ category. One post was reserved for physically specially



abled Orthopedic had also been provided for. Undisputedly, the post of physically specially abled was reserved horizontally and such a candidate could be adjusted against any of the vertical categories, as per the instructions issued by the Government of Haryana, from time to time.

3. It is further undisputed that one Mohan Kumar Gorse who otherwise belonged to BCB category and had applied under the PHC-OH-BCB was recommended by the respondent-Commission for the post of Junior Draftsman. The petitioner (Mohan Lal herein) was placed first in the waiting list for the BCB-category.

4. The selection and appointment of Mohan Kumar Gorse under the physically specially abled OH category was, however, challenged by one Pardeep Kumar vide CWP-128 of 2018. The said writ petition was eventually allowed and recommendation and appointment of Mohan Kumar Gorse in the category of PHC-OH was set aside. In compliance to the said order, the appointment against the reserved category of specially abled (OH) was, thereafter, offered to the said Pardeep Kumar who belonged to the general category and thus would consume the post in the said category, however, Mohan Kumar Gorse (supra) who belonged to the BCB category but was recommended and selected against the post of physically specially abled and was nonetheless higher in the order of merit as compared to the petitioner herein. Therefore, he was recommended for being retained as Junior Draftsman in the substantive vertical category i.e. BCB.

5. Challenging the said decision of the respondents in recommending and appointing Mohan Kumar Gorse in the BC-'B' category



instead of the petitioner Mohan Lal herein, the instant writ petition has been filed.

6. Learned Counsel for the petitioner contends that a candidate, whether he belongs to General or reserved category can submit only one Online application form for a particular category for the post advertised. The relevant part thereof reads thus:-

*“A candidate whether he belongs to General or reserved category viz. SC, BCA, BCB, EBPG, ESM/DESM, DFF, PHC or OSP can submit only one online application form for a particular category of post advertised. The special instructions for online applications as given on website [www.hssc.gov.in](http://www.hssc.gov.in) must be carefully read to help in understanding and filling in the application form. No offline form will be accepted. All the relevant columns of the application form should be filled in.”*

7. Referring to the above, he contends that the candidate-Mohan Kumar Gorse having submitted his application under the PHC-OH category, hence, his case could not have been considered for grant of benefit of reservation under the BCB category. His recommendation and selection against the said post having already been set aside in favour of Pardeep Kumar, hence, the post in question was required to be filled up by the next candidate in the waiting list i.e. the petitioner herein.

8. Controverting the same, Counsel for the respondent-State submits that the application form submitted by Mohan Kumar Gorse (supra)



was for PHC-OH-BCB and initially he was recommended against the horizontal category of PHC-OH. He submits that notwithstanding his appointment under the physically specially abled horizontal category having been set aside, however, since he was higher in the merit even otherwise than the petitioner Mohan Kumar herein, hence, he would nonetheless be considered under his vertical category viz. BCB. Thus the appointment had been rightly made in favour of Mohan Kumar Gorse under the said category. He places reliance on the judgment of this Court in the matter of ***“Ankush Kumar versus State of Haryana and another”*** dated 21.01.2020 passed in CWP-27795 of 2018. The relevant extract thereof reads thus:-

*“4. Learned counsel for the petitioner has referred to the Supreme Court judgment passed in Anil Kumar Gupta v. State of Uttar Pradesh and others 1995(4) S.C.T. 403 to contend that reservation for physically handicapped persons, ESM, dependents of freedom fighters is the horizontal reservation and the reservation under the SC category, ST category and other backward class category is called vertical reservation. The candidates belonging to horizontal reservation will cut across vertical reservation. He further contends that the petitioner though did not make a cut under the OH category he has a right to be considered under the SC category as he had secured 152 marks at par with the last selected candidate under the SC category and the petitioner cannot be denied the benefit of being SC candidate.*

*5. Learned counsel for the petitioner has further referred to judgment passed by the*



*Division Bench of this Court in CWP No. 18738 of 2009 titled as Ajit Singh v. State of Haryana and others (Annexure P-11) to contend that physically handicapped candidates have to be given benefit of reservation under the horizontal category. If the physically handicapped candidate also falls within vertical reserved category, then he has to be given preference from the candidates of the vertical reserved category.*

*6. As per the corrigendum dated 18.05.2016 (Annexure P-1/B), the total posts for SC category are 1159 and total posts for PHC OH category are 63. The selection has to be made as per the merit and the last selected candidate under the PHC OH category has secured 158 marks.*

*7. For all intents and purposes, the petitioner could not get appointment under the 63 posts reserved for PHC OH category. But at the same time, as per the Division Bench judgment passed in Ajit Singh's case (supra), he has right to be considered under his main category i.e. SC.*

*8. Since the petitioner has secured 152 marks at par with the last selected candidate, writ petition is allowed and the respondents are directed to give appointment to the petitioner under the SC category on notional basis without any financial benefits within a period of one month from the date of receipt of certified copy of this order.*

9. Responding to the above, Counsel for the petitioner contends that there is no reference to any specific terms and conditions of the advertisement and as such, the judgment is not applicable to the facts of the



present case.

10. I have heard learned Counsel appearing on behalf of the respective parties and have gone through the documents available on record.

11. It is undisputed that Mohan Kumar Gorse belonged to the BCB category and he was availing consideration in the physically specially abled OH category. The same being a horizontal category was thus floating and has to be consumed against the substantive category to which the ultimately selected candidate belonged. The position in law needs no elaboration that any person who is claiming benefit under the horizontal category does not waive of his right for consideration against the substantive vertical category to which he or she belongs.

12. The extract of the advertisement relied upon by the Counsel for the petitioner only mandates the candidates to submit one application form for a particular category of post advertised. The petitioner having sought his consideration preferably under the PHC-OH-BC-'B' category cannot be said to have waived of his right of consideration on his own merit in the substantive vertical category. Denial of any such right of a more meritorious candidate to be considered would even otherwise be contrary to the settled position of law and would amount to giving a walk over to a person who is otherwise lesser in the order of merit. In any case, a mandate which prescribes that one application form can be submitted for a particular category does not mean that a candidate would not be considered in his substantive vertical category for recommendation notwithstanding his merit. The clause was only to restrict multiplicity of applications of the same candidate in case he is availing horizontal reservation under different



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categories. To assign a meaning, as is being sought to be projected, would rather be contrary to the settled position in law as laid down in the matter of *Ankush Kumar (supra)*.

13. The terms and conditions governing recruitment have to be read in light of the prevailing instructions. Counsel for the petitioner has not been able to refer to Haryana Government instructions in support of his case. The advertisement and the recommendations have been made in accordance with the Government instructions and no illegality has been established from the record or law.

14. For the said reasons, I do not find that there is any illegality committed by the respondents in offering the post to Mohan Kumar Gorse under the BCB category on the basis of his own merit.

The writ petition is accordingly dismissed.

(VINOD S. BHARDWAJ)  
JUDGE

08.05.2025  
*Vishal Sharma*

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