



2024 INSC 112

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6395/2023

HARYANA STAFF SELECTION COMMISSION

APPELLANT(S)

VERSUS

SUBHASH CHAND & ORS.

RESPONDENT(S)

J U D G M E N T

ABHAY S. OKA, J.

1. Despite service, none appears for the second and the third respondents.
2. Heard the learned counsel appearing for the appellant and the learned senior counsel appearing for the first respondent.
3. The appellant-Haryana Staff Selection Commission published an advertisement on 28<sup>th</sup> June, 2015 inviting applications for the posts of (PGT)-H.E.S.II (Group-B Services). The closing date for the submission of online applications was 21<sup>st</sup> September, 2015. The last date for the deposit of fee by the candidates was 24<sup>th</sup> September, 2015. The advertisement itself specifies the posts reserved for various categories, including SBC (5%) and EBPGC (5%). The first respondent specifically applied under the SBC category for the post of PGT in Political Science. It appears that on 29<sup>th</sup> August, 2018, the first respondent was informed that he was qualified in the written test and, therefore, he was called for

scrutiny of documents. In the result declared on 17<sup>th</sup> September, 2018, the first respondent was shown in the General category. The first respondent secured total 118 marks. The cut-off in the General category was 129 marks and, therefore, the first respondent was not selected.

4. It appears that the Government of Haryana issued communications dated 21<sup>st</sup> February, 2018 and 1<sup>st</sup> June, 2018, recording therein that in view of the order passed by the High Court in CWP No.18514/2016, the Notification dated 27<sup>th</sup> September, 2013, should not be given effect. The said Notification dated 27<sup>th</sup> September, 2013 was for providing a quota to the candidates belonging to the SBC category.

5. On 5<sup>th</sup> June, 2017, a certificate was issued to the first respondent recording that he belongs to the EBPGC category. On 29<sup>th</sup> August, 2018, the first respondent filed a representation to consider the change of his category to the EBPGC category. Perhaps, this representation was made considering the stand that the quota notified for SBC category was merged into the General category. The above representation was followed by one more representation on 1<sup>st</sup> October, 2018.

6. As the representation was not considered, on 3<sup>rd</sup> October, 2018, the first respondent filed a writ petition being CWP No.25782/2018 (O&M) under Article 226 of the Constitution of India before the High Court. While issuing notice on the said writ petition, on 8<sup>th</sup> October, 2018, one post was ordered to be kept reserved. The

learned Single Judge *vide* judgment and order dated 10<sup>th</sup> December, 2018, referred to the interim order dated 8<sup>th</sup> October, 2018 and observed that the State of Haryana did not dispute the rest of the conditions of eligibility, except the category. A direction was issued by the High Court to grant appointment to the first respondent in General Caste (EBPGC) category. A Letters Patent Appeal being LPA No.1199/2019 was preferred by the appellant before the Division Bench of the High Court. The Letters Patent Appeal was dismissed by the impugned judgment dated 24<sup>th</sup> March, 2023.

7. The submission of the learned counsel appearing for the appellant is that the first respondent never applied under the quota reserved for the EBPGC category before the cut-off date and, in fact, he was granted the certificate long after the cut-off date. The learned counsel submitted that in view of the directions issued by the High Court on 27<sup>th</sup> June, 2015 and 26<sup>th</sup> May, 2016, the State Government was restrained from acting upon the Notifications dated 28<sup>th</sup> February, 2013 and 24<sup>th</sup> January, 2013. Thus, the State Government was prevented from giving effect to the reservation for the SBC category quota. Therefore, the applications of those candidates who had applied under the SBC category quota were ordered to be considered against the General category. The learned counsel further submitted that the first respondent did not score enough marks to get appointment in the General category and, therefore, he was not selected. The learned counsel also submitted that the appellant has acted in terms of the directions issued by the High Court.

8. We have also heard the learned senior counsel appearing for the first respondent.

9. The first order of the High Court directing the State Government not to give any employment in the Government service and admission in the educational institutions against the SBC category was passed on 27<sup>th</sup> July, 2015 in CWP No.9132/2015 (*Ved Prakash and another vs. State of Haryana and others*). A perusal of the said order (Annexure R/5 to the counter affidavit) shows that the State Government was represented by the learned Advocate General when the said order was passed. It is pertinent to note that the advertisement subject matter of controversy was issued on 28<sup>th</sup> June, 2015 and the last date for submitting online applications was 21<sup>st</sup> September, 2015. Obviously, it was the duty of the State Government to instruct the appellant to modify the advertisement and postpone the last date of submission of the online applications. Having full knowledge of the order dated 27<sup>th</sup> July, 2015 of the High Court, the State Government and the appellant took no steps, therefore, the candidates like the first respondent applied under the SBC category quota.

10. Even assuming that the State Government and the appellant overlooked the order dated 27<sup>th</sup> July, 2015 of the High Court, even after noticing the said order, the State Government could have directed the appellant to cancel the process and issue a fresh advertisement. We may note here that though the cut-off date for submitting the online applications was 21<sup>st</sup> September, 2015, the

result of the written test was declared nearly three years thereafter on 29<sup>th</sup> August, 2018. It is because of the default on the part of the State Government, the first respondent was prevented from making an application in the EBP GC category. These aspects have been considered by the Division Bench of the High Court in the impugned judgment. In fact, in the impugned judgment, it is noted that the District Administration started receiving the applications for issuance of EBP GC certificates only when the instructions were issued on 7<sup>th</sup> June, 2017 by the Chief Secretary of the Government of Haryana. Therefore, the finding of fact recorded by the Division Bench is that the first respondent cannot be blamed for claiming reservation under the SBC category quota and for not claiming reservation under the EBP GC category quota. It is in the light of these peculiar facts that the Division Bench has confirmed the judgment of the learned Single Judge. As noted earlier, the learned Single Judge has directed the appointment of the first respondent to be made against one post reserved under the interim order. At this stage, we may note here that the contention of the learned senior counsel appearing for the first respondent is that about 11 seats belonging to the EBP GC category quota earmarked under the same advertisement are still vacant.

11. Considering the fact that the first respondent was placed in a very peculiar position due to the default on the part of the State Government, the learned Single Judge has passed an order for accommodating the first respondent. The order is just and equitable.

12. In view of the peculiar facts which we have discussed above, we are of the view that no interference with the impugned judgments is called for. While we say so, we direct that the appointment order be issued to the first respondent in terms of the impugned judgment dated 10<sup>th</sup> December, 2018 of the learned Single Judge within a period of one month from the date on which a copy of this judgment is uploaded on the website of this Court. We clarify that the first respondent shall not be entitled to back wages. However, the period from 10<sup>th</sup> December, 2018 till the date on which the appointment order is issued, shall be taken into consideration for grant of further promotions, if any, and for retiral benefits.

13. Subject to the above directions, the Appeal is dismissed.

.....J.  
(ABHAY S.OKA)

.....J.  
(UJJAL BHUYAN)

NEW DELHI;  
JANUARY 31, 2024.