(20)

# HARYANA VIDYUT PRASARAN NIGAM LIMITED

Regd. Office : Shakti Bhawan, Plot No. C-4, Sector-6, Panchkula 134109
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To

1. The CE/Admn., HVPNL, Panchkula
2. The CGM/Admn., UHBVN, Panchkula
3. The CE/Admn., HPGCL, Panchkula
4. The CGM/Admn. & HR, DHBVN, Hisar

Memo No. 97 /LB-2(63) Dated: 02.01.2023

**Subject: CWP No. 21876 of 2018 titled as Sh. Anil Vs State of Haryana & others.**

Attention is drawn to judgment dated 21.11.2022 passed in subject cited case vide which the Hon'ble High Court dismissed the present writ petition in favour of Nigam.

The operative part of judgment dated 21.11.2022 is given here under:-

"The petitioner had applied for the post of Grid Sub-Station Operator. He had submitted the application form on 28.03.2016 wherein he had mentioned the category under which he was applying as 'general'. He preferred an application to the Chairman, Selection Committee on 01.04.2016 wherein a copy of the BC-B certificate issued on 01.08.2008 had been appended. The petitioner had not appended the latest BC-B certificate before 04.04.2016 i.e. the last date of submission of the application form. The BC-B certificate not only mentions that the applicant belongs to a particular category but has stipulation for income to indicate that the applicant does not fall in the creamy layer. The petitioner ought to have filled the correct category in the application form along with the latest BC-B certificate. The latest certificate would be necessary as it would be based on the particulars of the petitioner's recent family income.

Therefore, as the petitioner had neither filled the BC-B category in the application form nor submitted the latest certificate at the time of submission of the application form, I do not find any infirmity in the action of the respondents in not treating the petitioner's candidature in the BC-B category. Furthermore, the petitioner is stated to have secured 132 marks and in the general category the last selected candidate has also secured 132 marks. In the affidavit filed by the respondents on 16.11.2020 it has also been set out that no candidate, who has obtained lesser marks than the petitioner, has been selected. The waiting list earlier was confined to 5 candidates but in terms of the afore-noted instructions issued by the State government, it was extended to include 6 more candidates. All these candidates, who had been offered appointment from the waiting list, were elder in age than the petitioner although they had secured the same marks as the petitioner. In terms of the instructions of the State government, in the event of two candidates having same marks the candidate who is elder in age would be given preference. Consequently, I do not find any merit in this petition which stands dismissed.

Civil miscellaneous application(s), if any, also stands disposed of.

Memo No. 378
Dated 17.01.23
DS/Estt.
US/NGE
DS/General
DS/T&M
XEN/HR&TRG
XEN/Rectt.
CE/Admn.

Diary No. 67 Xen/Rectt.
Dated 18.01.23

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HVPN

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complete copy of judgment dated 21.11.2022 is enclosed herewith for.

It is an important judgment on the point that a person if two candidates secured same marks, the candidate who elder in age would be given preference. The above judgement be circulated to offices under your control for praying dismissal of similar cases by placing reliance on the judgment dated 21.11.2022 passed by Hon'ble High Court. It is also requested to direct the concerned Deputy Secretary, Technical to host the Judgment dated 21.11.2022 on the website of concerned Power Utility. A complete copy of judgment dated 21.11.2022 is enclosed herewith for ready reference.

This issue with the approval of L.R.

DA/As Above

Legal Officer,
HPU, Panchkula.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

229

CWP-21876-2018 (O&M)
DATE OF DECISION: 21.11.2022

ANIL ... Petitioner (s)

Versus

STATE OF HARYANA AND ANOTHER .. Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Sushil Jain, Advocate for the petitioner.

Mr. Hitesh Pandit, Advocate for respondent No.1.

Mr. Narender Behgal, AAG, Haryana.

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ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner is seeking a direction to the respondents to consider his candidature for the post of Grid Sub-station Operator under the BC-B category.

Learned counsel for the petitioner submits that the petitioner had applied for the post of Grid Sub-Station Operator in response to the advertisement issued by the respondents on 20.02.2016 (Annexure P-1). He had inadvertently mentioned general category while submitting the application form on 23.08.2018. He immediately realised the error and sent an application to the Chairman, Selection Committee on 01.04.2016 appending therewith copy of the BC-B certificate. He had also submitted the BC-B certificate before the Selection Committee at the time of scrutiny of documents on 31.07.2017. He, therefore, ought to have been considered under the BC-B category. In the alternative, he had submitted that even assuming that the petitioner is to be considered under the general category he had secured 132

marks and several candidates who were not even on the waiting list have been appointed by the respondents. The result which was published by the respondents indicated only 5 candidates in the waiting list. They had obtained 132 marks which are also the marks obtained by the petitioner. He also submits that the petitioner does not fall within the creamy layer.

Learned counsel for the respondents, while referring to the reply filed by them, submits that initially five persons were in the waiting list but later on in terms of instructions issued by the Chief Secretary, Government of Haryana on 21.01.1998, the revised waiting list was published to include 10% of the posts. He also submits that as the petitioner in the application form had specifically mentioned that he is applying in the general category he was considered in the general category.

Heard.

The petitioner had applied for the post of Grid Sub-Station Operator. He had submitted the application form on 28.03.2016 wherein he had mentioned the category under which he was applying as 'general'. He preferred an application to the Chairman, Selection Committee on 01.04.2016 wherein a copy of the BC-B certificate issued on 01.08.2008 had been appended. The petitioner had not appended the latest BC-B certificate before 04.04.2016 i.e. the last date of submission of the application form. The BC-B certificate not only mentions that the applicant belongs to a particular category but has stipulation for income to indicate that the applicant does not fall in the creamy layer. The petitioner ought to have filled the correct category in the application form along with the latest BC-B certificate. The latest

certificate would be necessary as it would be based on the particulars of the petitioner's recent family income.

Therefore, as the petitioner had neither filled the BC-B category in the application form nor submitted the latest certificate at the time of submission of the application form, I do not find any infirmity in the action of the respondents in not treating the petitioner's candidature in the BC-B category. Furthermore, the petitioner is stated to have secured 132 marks and in the general category the last selected candidate has also secured 132 marks. In the affidavit filed by the respondents on 16.11.2020 it has also been set out that no candidate, who has obtained lesser marks than the petitioner, has been selected. The waiting list earlier was confined to 5 candidates but in terms of the afore-noted instructions issued by the State government, it was extended to include 6 more candidates. All these candidates, who had been offered appointment from the waiting list, were elder in age than the petitioner although they had secured the same marks as the petitioner. In terms of the instructions of the State government, in the event of two candidates having same marks the candidate who is elder in age would be given preference.

Consequently, I do not find any merit in this petition which stands dismissed.

Civil miscellaneous application(s), if any, also stands disposed of.

**(ANUPINDER SINGH GREWAL)**
**JUDGE**

**21.11.2022**
SwaranjitS

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