

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No.4768 of 2025

Decided on: 16th May, 2025

Manjana

....Petitioner

Versus

State of H.P. & Ors.

...Respondents

*Coram***Ms. Justice Jyotsna Rewal Dua**¹ *Whether approved for reporting? Yes*

For the petitioner:

Dr. Lalit K. Sharma, Advocate.

For the respondents:

Mr. Rajat Chaudhary, Assistant
Advocate General, for respondents
No. 1, 3 and 4.Mr. Vikrant Thakur, Advocate for
respondent No.2.

Jyotsna Rewal Dua, Judge

Petitioner's case is that while applying online for the post in question through the aid of a Cyber Cafe, the applied for category was inadvertently mentioned as Scheduled Caste, whereas she belongs to Scheduled Tribe and alongwith the application also, certificate of her belonging to Scheduled Tribe was uploaded, therefore, the

¹ *Whether reporters of Local Papers may be allowed to see the judgment? yes*

respondent No.2 has wrongly rejected her prayer for change of category from Scheduled Caste to Scheduled Tribe.

2. From the joint submissions made by learned counsel for the parties, following factual position emerges: -

2(i) Respondent No.2-Himachal Pradesh Public Service Commission issued an advertisement on 04.10.2024 for recruitment against 380 posts of Constable (Female) for specialized duties in Himachal Pradesh Police Department. The closing date for furnishing Online Recruitment Applications (ORA) was 31.10.2024. 380 posts of Constable (Female) were further split-up category-wise, including the categories of Scheduled Castes and Scheduled Tribes.

2(ii) As per Clause (C) of the advertisement, category of candidate as claimed in the profile for the post was to be treated as final. In case the candidate had inadvertently filled her category wrongly in the ORA or her category underwent change before the prescribed closing date for submission of online recruitment application, then such candidate could get her application modified by requesting the Commission to that effect in writing. Clause (C) also covered situations where a candidate finds out at any later stage, about her

having wrongly filled her category in ORA or there occurs change of category which is beyond the control of the candidate at any stage during the recruitment process, then provided she has not availed any relaxed standards in terms of experience, qualification etc. she could inform about it in writing to the Commission at least 15 days before the conduct of Physical Standard test, failing which, such requests were not to be entertained by the Commission. Clause (C) reads as under:-

“C Category Claims:-

The category of the candidate claimed in the profile before she applies for the post shall be treated as final. In case the candidate has inadvertently filled her category wrongly in the ORA or her category undergoes a change before the prescribed closing date for submission of online recruitment application through OTR portal then such candidate shall have to get her application modified by requesting the Commission to that effect in writing. However, in cases where candidate finds out at any later stage that she has wrongly filled her category in the ORA or there is change of category which is beyond the control of the candidate at any stage during the recruitment process; provided she has not availed any relaxed standards in terms of age, experience, qualification etc., she will inform about it in writing to the Commission at least 15 days before the conduct of Physical Standard test failing which no such type of requests shall be entertained by the Commission. Decision on the

request to change the category shall be final.”

As per Clause (F) of the advertisement, the recruitment process was to include Physical Test, Written Test, Evaluation & Document Verification and Medical Examination.

2(iii) Petitioner submitted her ORA for the post of Constable (Female) within the stipulated period with assistance of a Cyber Café. She mentioned her category therein as Scheduled Caste, though against this column the certificate uploaded was of her belonging to Scheduled Tribe Category. It is her case that she was not aware about Scheduled Caste Category having been ticked in her ORA.

2(iv) Respondent No.2 issued admit card to the petitioners, recording her category as Scheduled Caste. Petitioner was to appear for the Physical Efficiency Test/ Physical Standard Test on 27.03.2025. The Physical Efficiency Test/ Physical Standard Test was conducted by the officials of the Police Department. It is the admitted case of the respondents-Police Department that on 27.03.2025, petitioner was provided with “Form Of Recruitment” at registration counter, in which she filled her category as

Scheduled Tribe. Petitioner qualified the Physical Efficiency Test/Physical Standard Test, however, the police officials noticed discrepancy in petitioner having mentioned her category as Scheduled Tribe in 'Form of Recruitment', whereas, in her ORA, and admit card, her category was mentioned as Scheduled Caste.

2(v) It is also the case of the Police Department i.e. respondents No.1, 3 and 4 that petitioner was directed to submit in writing to the District Recruitment Committee, which conducted Physical Efficiency Test/Physical Standard Test, to produce Scheduled Caste Category certificate. Petitioner showed her inability to produce Scheduled Caste Category certificate and reiterated that she belongs to Scheduled Tribe Category and had already uploaded her certificate in that regard. This is also mentioned in the petitioner's representation dated 28.03.2025 made to the District Recruitment Committee.

2(vi) On coming to know of the discrepancy in her ORA and the admit card in relation to petitioner's category mentioned therein, the petitioner represented to respondent No.2 on 28.03.2025 to allow her to rectify the mistake that

had crept in her ORA and permit her to change her category from Scheduled Caste to Scheduled Tribe. The Public Service Commission rejected petitioner's request under an e-mail dated 29.03.2025.

Feeling aggrieved, petitioner has instituted this writ petition seeking following substantive reliefs:-

- I. That the impugned Email dated 29/03/2025 Annexure P7 may kindly be set aside and quashed and the respondents may kindly be further directed to consider the candidature of the petitioner to the vacant post of Constable (female) against 13 post of ST (unreserved) as detailed in Annexure P3.*
- II. That the respondents may be directed to permit the petitioner to sit in the written test for the post of Constable (female) against 13 post of ST (unreserved) as and when it will be conducted by the respondents as she has qualified the physical test."*

3 I have heard learned counsel for the parties and considered the case file.

4 The sequence of facts given above clearly indicates that present is a case of a bonafide and inadvertent mistake committed by the petitioner while filling up her ORA for the post of Constable (Female).

4(i) Petitioner has specifically pleaded that she belongs to Scheduled Tribe Category; She had uploaded the

certificate of her belonging to Scheduled Tribe Category alongwith ORA. This fact has not been specifically denied by respondent No.2. None of the respondents have taken the defence that petitioner belongs to Scheduled Caste Category.

4(ii) As per the case pleaded by the petitioner, she had taken assistance of a Cyber Café for submitting her ORA. In the backdrop of the admitted fact that she belonged to Scheduled Tribe Category, had uploaded the certificate of her belonging to Scheduled Tribe Category alongwith her ORA, her assertion that mentioning her category as Scheduled Caste in ORA was an inadvertent mistake, deserves to be given due credit.

4(iii) It is an admitted position that while appearing for the Physical Efficiency Test/Physical Standard Test, petitioner had filled in her category in the Form of Recruitment as Scheduled Tribe. It was only later that the police officials conducting the Physical Efficiency Test/Physical Standard Test, noticed the discrepancy in the ORA submitted by the petitioner and the Form of Recruitment furnished by her in relation to her category. In fact, even the tone and tenor of the reply filed by respondents

No.1, 3 and 4, gives the impression that petitioner became aware of the mistake in mentioning her category in the ORA only when the police officials had pointed this out to her on 28.03.2025. Immediately thereafter, i.e. on 28.03.2025 itself, she represented to respondent No.2 to allow her to rectify the error.

4(iv) Though the advertisement issued by respondent No.2 states that rectification request should be made in writing 15 days before conducting of Physical Efficiency Test/Physical Standard Test, but this cannot be held against the petitioner as she became aware of the discrepancy in her category only on the day of holding of Physical Efficiency Test/Physical Standard Test. Undeniably, the advertisement does carry a stipulation allowing rectification of category entered in the ORA. In these circumstances, the request of the petitioner for allowing her to change her category from Scheduled Caste as mentioned in her ORA to Scheduled Tribe, which is her actual category, deserves to be allowed.

At this stage, it will be relevant to note ***Vashist Narayan Kumar Vs. The State of Bihar and Ors***². The question that arose for consideration before the Hon'ble Apex

² Civil Appeal No.1 of 2024, decided on 02.01.2024,

Court was, whether the error committed in the application form, which was uploaded, is a material or a trivial error and whether the State was justified in declaring the appellant as having failed on account of the same. In the aforesaid case, the appellant had submitted his online application through the assistance of Cyber Café, mentioning his incorrect date of birth. The Hon'ble Apex Court held that the error was not so grave so as to constitute wrong or misleading information. Whenever any material discrepancy is noticed in the application form and/or when any suppression and/ or misrepresentation is detected, the candidature might be cancelled even after the application has been processed and the candidate has been allowed to participate in the selection process. However, after a candidate has participated in the selection process and cleared all the stages successfully, his candidature can only be cancelled, after careful scrutiny of the gravity of the lapse, and not for trivial omissions or errors. Law does not concern itself with trifles.

In the instant case also, the facts as have come on record do not project it to be a case of any misrepresentation on part of the petitioner. It was case of an inadvertent error, a

bonafide error, which was committed probably at the end of the Cyber Café whose assistance was taken by the petitioner for filing the Online Recruitment Application. Nonetheless, her category remains the same i.e. Scheduled Tribe Category. Allowing the petitioner to change her category from Scheduled Caste as mentioned in her ORA to Scheduled Tribe, which is her actual Category, is not going to prejudice anyone.

5. In view of above discussion, present writ petition is allowed. Respondent No.2 is directed to permit the petitioner to change her category from Scheduled Caste to Scheduled Tribe in her application. The petitioner be permitted to participate in the further selection process as a candidate belonging to Scheduled Tribe Category.

Pending miscellaneous application(s), if any, shall also stand disposed of.

Jyotsna Rewal Dua
Judge

May 16, 2025
R.Atal