

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 24607 of 2012 (O&M)

Date of Decision: 06.02.2015.

Ramesh Kumar

--Petitioner

Versus

State of Haryana & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Ravinder Malik, Advocate for the petitioner.

Mr. Ravi Pratap Singh, A.A.G., Haryana.

TEJINDER SINGH DHINDSA.J

The petitioner has filed the instant writ petition assailing the order dated 19.11.2012 at Annexure P-9, passed by the D.G.P., Haryana in terms of which the claim of the petitioner seeking appointment to the post of Constable under the Freedom Fighter General Category pertaining to Jind District, has been rejected.

Learned counsel for the parties have been heard at length.

The uncontroverted facts are that the petitioner had applied for the post of Temporary Constable (General Duty) in Haryana Police in response to an advertisement issued in the year 2008 and placed on record at Annexure P-6. In so far as Jind District is concerned, 682 vacancies were advertised out of which 308 were to be filled up from the General Category and 54 were earmarked for Ex-service Man General Category. The petitioner, as per his application form which stands appended as Annexure R-1 along with the written statement filed on behalf of the State, had applied against the General Category and had even tick marked against Ex-service Man General Category.

The entire case set up on behalf of the petitioner is that he essentially belongs to the General Category and is also the grandson of a Freedom Fighter. Reliance has been placed upon instructions dated 26.7.1984 at Annexure P-4 as also instructions dated 26.11.1985 at Annexure P-5 to contend that the State Govt. had taken a decision in principle that, if, the quota reserved for Ex-Service Man remains unfilled on account of non-availability of suitable candidates, then, 2% of such unfilled posts would be available to the children and grand children of Freedom Fighters. Counsel appearing for the petitioner would justify the petitioner having filled up and ticked his category even as General (E.S.M) Category by contending that this was done only to cover up an eventuality of the quota of Ex-Service Man remaining unfilled and to avail of the 2% reservation for children and grand children of Freedom Fighters, as per instructions at Annexures P-4 and P-5.

It has gone undisputed that in the selection process in which the petitioner had participated he has secured a total of 27.5 marks i.e. 20 in the Physical Efficiency Test and 7.5 marks in the Interview. On the basis of having secured 27.5 marks the petitioner has not been able to secure a merit position against the 308 vacancies earmarked for the General Category candidates. His claim now is that out of 54 General Category (E.S.M) posts that were reserved, 30 have remained unfilled and by way of operation of the instructions at Annexures P-4 and P-5, he is entitled to be appointed to the post in question i.e. Constable (G.D.) against the 2% reservation provided for children and grand children of Freedom Fighters.

The claim of the petitioner is found to be wholly untenable.

In the first instance recruitment to the post of Constable (G.D.) in Haryana Police would have to be governed in the light of conditions of eligibility as also reservation provided for in the advertisement at Annexure P-6 in response to which the petitioner had applied. Admittedly, in such advertisement no reservation for children and grand children of Freedom Fighters had been stipulated. It is not even the case made out on behalf of the petitioner that any other candidate has been granted benefit of reservation in the capacity of being a child or grand child of a Freedom Fighter.

That apart, even the instructions at Annexures P-4 and P-5 cannot enure to the benefit of the petitioner.

A plain reading of the instructions would show that at best a reservation of 2% would be available for Freedom Fighters and their children and grand children of the quota that remains unfilled and was originally reserved for E.S.M.

It is the case of the petitioner himself that 30 posts pertaining to E.S.M category have remained unfilled. Even if, a 2% reservation was to be applied against such unfilled quota, still, no post would be available for the petitioner to stake a claim as regards appointment.

Resultantly, no infirmity is found in the impugned order dated 19.11.2012, passed by the D.G.P., Haryana rejecting his claim seeking appointment to the post of Constable (G.D.).

Writ petition is, accordingly, dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

February 06, 2015.

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