

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

CWP No.5191 of 2012

Date of Decision: 03.08.2015

Karam Singh Saini

....Petitioner

Versus

State of Haryana and others

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see the judgment ? (Yes/No)**
- 2. To be referred to reporters or not ? (Yes/No)**
- 3. Whether the judgment should be reported in the Digest ? (Yes/No)**

Present:- Mr. Raman Sharma, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. D.A.G., Haryana
for the respondent-State.

Mr. Deewan S. Adlakha, Advocate
for respondent No.7.

DAYA CHAUDHARY, J.

The present petition has been filed for issuance of an appropriate writ for quashing of appointment of respondents No.3 to 7 in preference to the petitioner, in violation of terms and conditions of selection, being illegal and arbitrary.

An advertisement was published for filling up of 3700 posts of constables in various districts of State of Haryana under different categories on 02.05.2006. The petitioner also submitted his application under BC(B) category. He participated in the selection process and made himself available for Physical Measurement and Physical Efficiency Test.

The petitioner appeared before the Interview Committee as well. The result of selection was declared on 24.04.2007 and the name of the petitioner was found mentioned in the waiting list against serial No.1 of the BC(B) category of District Kurukhetra. He secured 14 marks in the physical test, whereas, in the interview, he was awarded 10½ marks and the total comes to 24½ marks. The petitioner filed **CWP No.18649 of 2007** challenging the selection but the same was dismissed on **14.07.2009**. **LPA No.1816 of 2010** filed by the petitioner was also dismissed on **21.02.2011** with liberty to file Review Petition. Thereafter, the petitioner filed **Review Application No.111 of 2011**, which was also dismissed. The petitioner again filed **LPA No.1229 of 2011** and the judgment of Single Bench was set aside with a liberty to the petitioner to file afresh writ petition.

The grievance of the petitioner in the present petition is that respondents No.3 to 6 do not belong to District Kurukshetra and they did not apply against the seat meant for Kurukshetra District, still they have been selected by the Selection Board. It is also the contention of learned counsel for the petitioner that respondent No.7 was not eligible but subsequently, he has given up his claim qua respondent No.7. Learned counsel for the petitioner has restricted his claim against respondents No.3 to 6 on the ground that they were not eligible to be appointed in District Kurukshetra as they do not belong to that District, whereas, all the candidates were required to apply in their respective Districts as has been specified in the advertisement. Learned counsel for the petitioner also submits that the petitioner could have been appointed in place of respondents No.3 to 6 but in spite of making representation, neither any action was taken on the representation nor any order was passed regarding entitlement/eligibility of respondents No.3 to 6.

Learned counsel for the petitioner has relied upon the

judgment of Hon'ble the Apex Court in ***Virender S. Hooda and others vs State of Haryana and another AIR 1999 Supreme Court 1701***, in support of his contentions.

Learned counsel for the respondent-State submits that the *corrigendum* was issued after publication of the main advertisement, wherein, it was specified/clarified that the candidates belonging to Haryana State can also apply at any selection Centre other than the one notified for district of their residence. The said *corrigendum* was published in various newspapers. Learned counsel also submits that the selection was made in accordance with the provisions of the Punjab Police Rules 12.14 to 12.19 (amended up to 2007) and as per said provisions, no waiting list was to be prepared.

Heard the arguments of learned counsel for the parties and have also perused the documents available on the file.

Admittedly, total 3700 posts of Constables were advertised vide Advertisement dated 02.05.2006. The details of the vacancies, reservation, eligibility, selection procedure and other details were mentioned in the advertisement. It is also not disputed that the vacancies were also earmarked against each district. The petitioner applied along with other candidates including respondents No.3 to 7. The only grouse of the petitioner is that respondents No.3 to 6 have been selected in the quota of District Kurukshetra, whereas, they do not even belong to that district. Learned counsel for the petitioner has not pressed his claim qua respondent No.7. He is claiming his right only on the basis of note given in the advertisement, wherein, it has been mentioned that "candidates who belong to out of Haryana may submit their forms in any of the centres as per their choice." Nowhere in the advertisement, it has been mentioned that the candidates who belong to a particular district can apply in their own

district only. Subsequently, a *corrigendum* was also issued, which was published in local newspapers i.e The Tribune, The Indian Express, Dainik Bhaskar and Punjab Kesri, where some amendments/clarification were notified. It was specifically mentioned in the *corrigendum* that the candidates belonging to Haryana State can apply at any selection centre other than the one notified for district of their residence. No replication, whatsoever, has been filed to controvert the stand taken in the written statement. The petitioner is claiming his right only on the ground that respondents No.3 to 6 have been selected/appointed in spite of the fact that they do not belong to District Kurukhetra. Had respondents No.3 to 6 been not appointed, the petitioner has a right to be appointed being at serial No.1 of the waiting list. There is no provision for appointment from the waiting list as provided under Rule 12.16(22) of the Punjab Police Rules, 1934.

As per Rule 12.16(24) of the Rules, 1934, once the selection Board finalizes and communicates its recommendations to the units concerned, there cannot be any further change. Said Rules 12.16(22), (23) and (24) of the Punjab Police Rules, 1934 are reproduced as under :-

“12.16(22) Candidates shall be appointed as constable as per the notified vacancies for the concerned unit and the candidates who are left for want of vacancies even though they have been found medically fit and their character had also been verified as good, shall be deemed to have not been selected finally and there shall be no waiting list.

(23) The registers relating to recruitment process viz., Recruitment Registration Register, Physical, Measurements Registers, Physical Efficiency Test Register, Complaints Register shall all be permanent registers and the custody of these registers shall be of the unit for which selection had been made by the Selection

Board. The application forms of the candidates shall be preserved for a duration of three years from the date on which the physical efficiency test completed.

(24)Once the selection Boards finalise and communicate their recommendations to the units concerned, they shall cease to exist.”

In view of the facts and law position as discussed above, the petitioner cannot put his claim being in a waiting list. Moreover, keeping in view the *corrigendum*, the submissions made by learned counsel for the petitioner that respondents No.3 to 6 were not entitled to be selected/appointed, has no merit.

Hence, there is no merit in the contentions raised by learned counsel for the petitioner and the petition, being devoid of any merit, is hereby dismissed.

03.08.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE