

CWP No.26371 of 2015

Date of Decision: December 18, 2015

Jogender

...Petitioner

versus

The Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: - Mr.Surinder Gandhi, Advocate
for the petitioner.

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HARINDER SINGH SIDHU, J.

Prayer made in this writ petition is for a direction to the respondents to issue appointment letter for the post of Constable (GD) Male, to the petitioner, by treating him a candidate of OBC category.

Factual background of the case is that in the year 2011, the ITBPF – respondent invited applications through advertisement (Annexure P-1) for recruitment to the post of 2583 Constables (GD) Male. The schedule of the selection process was as follows:-

Last Date for receipt of application	04.03.2011 (for far flung areas 11.03.2011)
Dates of Physical Standard Test/Physical Efficiency Test	March to April, 2011
Date of written examination	01-05-2011
Date of Medical Examination	June-July, 2011
Date of declaration of Result	31.07.2011

It is stated that the petitioner who belongs to OBC category

ER KUMAR applied for the aforesaid post vide application Annexure P-4. He was

allotted Roll No.2201004292, Ticket Seat No.1000012 under OBC category (Annexure P-5). He appeared in the written examination under OBC category and passed the same. He was also declared physically fit for appointment on the post of Constable (GD) Male vide certificate Annexure P-8, but he was never issued any appointment letter.

After about two years i.e. on 23.8.2013, the petitioner filed an application under RTI Act, to the Staff Selection Commission – respondent, to know as to why he was not issued any appointment letter even though he had secured 45 marks, whereas, the cut off marks for appointment of Constable (GD) Male under OBC category was 39. In the information received vide letter dated 9.9.2013 (Annexure P-9), it was verified that he had received 45 marks and cut off marks for appointment under OBC category was 39. He was informed that the reason for his not having been selected may be that the petitioner is medically unfit. The information further disclosed that the records regarding the medical fitness of the candidates was with the ITBP and information in this regard could be supplied by the ITBP.

Upon this, the petitioner made another application under the RTI Act to the ITBP to know about his medical examination report. Vide letter dated 7.10.2013 (Annexure P-10), he was supplied the medical examination report (Annexure P-11) wherein, he was found to be 'fit'. Vide letter dated 9.10.2013 (Annexure P-12), the petitioner was informed that he was not considered in OBC category as he had failed to produce OBC certificate in prescribed format of Central Government at the time of DME held on 18.11.2011 at SS Bn. ITBP, Saboli Camp, Haryana as per notification of the SSC and that the petitioner had submitted an

undertaking for considering him in Unreserved category in place of OBC

category. The information also revealed that the cut of marks for the Unreserved Category were 48, whereas, the petitioner had secured only 45 marks, therefore, he was not recommended for the post.

The sole contention of the Learned counsel for the petitioner is that non-supply of the OBC certificate on the prescribed format to the respondents in time, could not be a ground to deny appointment to the petitioner under the Reserved OBC Category.

In my view, there is no need to go into the contention raised on behalf of the petitioner as this petition is liable to be dismissed on the preliminary ground of delay and laches.

The posts in question were advertised in the year 2011, the physical efficiency test/ written test/ medical examination were also conducted in the year 2011 and the entire recruitment process was completed in July, 2011. The petitioner filed an application under the RTI Act after more than two years of the selection. In response to it he was informed vide letter dated 9.10.2013 (Annexure P-12), that he had been considered under Unreserved category and thus, not selected. He remained silent for a further period of more than two years and filed this petition only in December, 2015.

It is thus too late in the day to consider the case of the petitioner for appointment in respect of a selection finalized more than four years ago.

Hence, without considering the merits of the case, the writ petition is dismissed on the ground of delay and laches.

December 18, 2015

**(HARINDER SINGH SIDHU)
JUDGE**

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