

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

LPA No. 631 of 2014 (O&M)
Date of decision: 12.03.2015

Harinder Kumar

----Appellant

Versus

State of Punjab and others

----Respondents

Coram: Hon'ble Mr. Justice Satish Kumar Mittal
Hon'ble Mr. Justice Harinder Singh Sidhu

Present: Mr. Vijay Kumar Rana, Advocate
for the appellant.

Mr. K.K. Gupta, Addl. A.G., Punjab.

HARINDER SINGH SIDHU, J.

This intra-Court appeal under Clause X of the Letters Patent has been filed against the judgment dated 13.03.2013 and passed by the Learned Single Judge, whereby, CWP No.5167 of 2013 filed by the appellant seeking directions to be included in the select list of Constables has been dismissed. Also challenged is the order dated 29.11.2013, vide which, the Review Application No.187 of 2013 seeking review of the aforesaid judgment was dismissed.

Though, there is a delay of 306 days in filing the appeal and in this regard the appellant has filed application No.1458-LPA of 2014, yet without considering the same, we have heard Learned counsel for the parties on the merits of the case.

Vide advertisement dated 28.09.2011 (Annexure P-6),

applications were invited for filling up 3726 posts of male and 2000 posts of Female Constables in the District Cadres of Punjab Police. The terms and conditions were mentioned, in detail, in the advertisement itself. The selection was to be made District-wise. 188 posts of male constables were to be filled in Jalandhar City, Commissionerate Police. 25% of the posts were reserved for Scheduled Castes/ Scheduled Tribes, 12% were reserved for Backward Class Category, 13% were reserved for Ex-Servicemen and 1% for Wards of Freedom Fighters.

The appellant applied for the post of Male Constable for Jalandhar City, Commissionerate Police in the Backward Class (Open) Category. On the basis of his educational qualifications, physical test and interview, he secured 27 marks.

Being unsuccessful in the selection, he filed the aforementioned Civil Writ Petition. His grievances were mainly three: (i) as 12% posts were reserved for Backward Class Category, 23 posts were required to be filled up, whereas, only 18 posts were filled up from that category; (ii) as many as, 18 candidates belonging to Backward Class (Open) Category secured 27 marks, but they were assigned different merit numbers because candidates younger in age were given preference over those older in age; and (iii) that two candidates belonging to Backward Class (Open) Category have been shown as selected in the category of Backward Class (Ex-Servicemen).

Learned Single Judge dealt with all the three contentions

and dismissed the petition. It has been recorded in the judgment of the Ld. Single Judge that during the hearing, a categorical question was put to the Learned counsel for the appellant that if 23 posts belonging to Backward Class Category were to be filled up, whether on the existing merit the appellant would make it and be selected. Learned counsel for the appellant candidly admitted that he would not. Based on this fact, the Learned Single Judge has held that even if some persons belonging to the Backward Class (Open) Category have been selected and appointed against the Backward Class (Ex-Servicemen Quota), it would not vitiate the selection, inasmuch as no prejudice could be said to have been caused to the appellant as a result of the said conversion. It was also taken note of that such conversion had been effected on earlier occasions also. Regarding the contention of the appellant that the candidates younger in age have been wrongly given preference over those older in age, Learned Single Judge held that as merit list has been prepared in accordance with the Standing Order issued by the Director General of Police on 19.03.2010, which standing order is prior to the issuance of the advertisement dated 28.09.2011, the same would be applicable to the selection process. Further, no fault can be found with the Standing Order, if preference is given to the candidates younger in age keeping in view the fact that the recruitment is to the posts of Constable and the persons younger in age would be more suitable for such disciplinary force than the older ones. Also, even if some posts in the Backward Class Category are still vacant, on his

own admission, according to the existing merit, the appellant would not make the grade. The writ petition was accordingly dismissed. The appellant filed a review petition which was also dismissed.

In the present appeal, Learned counsel for the appellant has reiterated the same arguments, which have been considered and rightly rejected by the Learned Single Judge. The Standing Order dated 19.03.2010, as per which, in case of candidates securing equal marks, the ones younger in age are to be given preference, had not been specifically challenged. However the Ld. Single Judge has rightly found no infirmity in the Standing Order and held it was justified keeping in view the fact that for the post of constable, the candidate younger in age would be fitter, healthier and thus more suitable. Besides, admittedly, even if the alleged vacancies in the Backward Class Category were to be filled up, the appellant would not make it to the select list.

Thus, there is no merit in the present appeal and the same deserves to be dismissed.

Ordered Accordingly.

(SATISH KUMAR MITTAL) (HARINDER SINGH SIDHU)
JUDGE JUDGE

March 12, 2015
Atul