

CWP No. 14949 of 2013

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

**CWP No. 14949 of 2013
Date of Decision : 20.10.2016**

HC Sandeep

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Sat Narain Yadav, Advocate for the petitioner.

Mr. Harish Rathee, Senior Deputy Advocate General, Haryana.

Anupinder Singh Grewal, J.(Oral)

The petitioner has challenged the selection list dated 20.04.2010 (Annexure P-3), wherein the name of the petitioner has not been included for undergoing Lower School Course for the year 2010.

Learned counsel for the petitioner contends that the petitioner is working as a Constable in the Haryana Armed Police. In the list prepared by the respondents for deputing the Constables for Lower School Course in terms of the Punjab Police (Haryana Amendment) Rules, 2001 (hereinafter referred to as, 'the Rules of 2001'), the petitioner has secured 63 marks and his name has been shown at Sl. No. 49, while respondent No. 3, who has secured only 51.5 marks, has been shown at Sl. No. 57. He further contends that the official respondents have arbitrarily placed respondent No. 3, ahead of the petitioner, which is contrary to the Rules of 2001. He has

placed reliance upon Sub-rule 2(i) and (ii) of Rule 13.7 of the Rules of 2001 in support of his contention that the eligibility of the candidates has to be determined on the 1st day of January, in the year in which the selection is made. He further contends that once the eligibility of respondent no. 3 has been determined on the 1st day of January, 2010 it could not have been changed by the respondents later on by adding marks as claimed by respondent No. 3. Learned counsel has also contended that 9 vacancies in the Scheduled Caste Category for deputing the Constables for Lower School Course were unfilled and hence, they should have been thrown open to the General Category, in which eventuality the petitioner would find place in the list of selected candidates, who are deputed for the Lower School Course.

On the contrary, learned State counsel has stated that for not including the marks due for his educational qualification as well as commendation certificates, respondent No. 3 had made a representation to the official respondents. On consideration of the qualification of respondent No. 3 as well as his commendation certificates, his marks were computed as 64.5, which were higher than 63 marks obtained by the petitioner. Learned State counsel has further contended that the vacancies in the SC Category, which remain unfilled, are being filled up by carrying them forward in the subsequent selection.

I have heard learned counsel for the parties and with their assistance, perused the petition.

The Constables are to be deputed for the Lower School Course in terms of the Rules of 2001. For ready reference Sub-rule 2(i) and (ii) of

Rule 13.7 of the Rules of 2001 is reproduced hereunder :-

“2(i) All constables irrespective of their educational qualifications shall be eligible to appear for B-test, if they are under the age of 35 years and have completed 5 years of service on the 1st day of January of the year in which selection is made. However, if a constable belonging to reserved category who is recruited after attaining the age of 27 years as per Government institution/order then he shall be allowed to appear for minimum three consecutive chances after completion of five years of service even if he has crossed the age of 35 years up to a maximum of 40 years.

(ii) All constables irrespective of their educational qualifications shall be eligible to be brought on list B-1, seniority-cum-merit basis if they are under the age of 40 years and have completed 5 years of service on the first day of January of the year in which selection is made.”

It is manifest from perusal of this Rule that the eligibility of the candidates has to be determined on the 1st day of January in which the selection is being made. In the case of respondent No. 3, the extra marks, which he was to be accorded for graduation, had not been calculated for determining his total marks. He was also not given the benefit of commendation certificates, which he had earned.

It is not in dispute that the qualification of graduation as well as the commendation certificates, which were taken into consideration after his representation pertained to a period prior to 1st day of January in the year 2010 wherein the selection was made. If an error had been committed by the official respondents in calculating the marks of respondent No. 3, the same could have been corrected as has been done by the official

respondents. Only in case respondent No. 3 had acquired the qualification and obtained the commendation certificates after the 1st day of January, 2010 then the same could not have been taken into account as the eligibility of candidate has to be determined on the 1st day of January of the year in which selection is made.

I do not find any illegality in the action of the official respondents in re-determining the marks of respondent No. 3 and giving him weightage for the qualification and commendation certificates.

Furthermore, I do not find any merit in the contention of learned counsel for the petitioner that the vacancies for SC Category, which had remained unfilled, should have been filled from the candidates in the General Category. Learned counsel has not been able to draw my attention to any Rule or instructions, which stipulate that the vacancies which have not been filled by adequate number of candidates in the Reserved Category would be thrown open to the General Category. The action of the official respondents in carrying forward the unfilled vacancies in the Reserved Category to the subsequent selection appears to be justified and does not call for any interference.

Therefore, I do not find any merit in the case of the petitioner for deputing him to the Lower School Course for the year 2010. In the result, the petition stands dismissed.

October 20, 2016.

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**(ANUPINDER SINGH GREWAL)
JUDGE**

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No