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

**CWP-14343-2014 (O&M)
Date of decision: 27.01.2016**

Sandeep Kumar

..... Petitioner

VERSUS

Staff Selection Commission and others

..... Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. R.S. Manhas, Advocate
for the petitioner.

Mr. S.K. Mahajan, Advocate,
for respondents No.1 to 3.

SABINA, J.

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of certiorari for quashing of the action of respondents in not selecting him as a constable.

The case of the petitioner in brief is that in January, 2011 respondent-department had advertised the post of constable. Petitioner had applied for the same under the category of Other Backward Classes (for short OBC). Petitioner qualified the physical test and thereafter appeared in the written test and successfully qualified the same. Petitioner was declared medically fit. Petitioner had obtained 45 marks but

was not issued the appointment letter. Ved Singh and Suresh Kumar had also applied under the category of OBC and they had secured 39 marks and 40 marks respectively and had been issued the appointment letters. Hence, the present petition was filed.

Learned counsel for the petitioner had submitted that the petitioner had been denied the appointment on the ground that he had produced the OBC certificate of the year 2007, whereas he was required to produce the certificate which had been issued within three years of the cut off date, i.e. 04.03.2011. Learned counsel for the petitioner further submitted that said condition imposed by the respondents was without any basis.

On the other hand, learned counsel for respondents has submitted that on 19.11.2011, petitioner had himself submitted an undertaking that he may be treated as a general candidate and the decision of the Staff Selection Commission would be acceptable to him.

In the present case admittedly petitioner had applied for the post of constable in the category of OBC. Petitioner had cleared the physical fitness test, medical fitness test and written test. The case of the petitioner is that his candidature had not been considered merely on the ground that he had attached the certificate declaring him to be a member of the OBC issued three years prior to the cut off date, i.e. 04.03.2011. Annexure

P-1 is the certificate placed on record by the petitioner, declaring him a member of OBC. The said certificate is dated 16.10.2008. The case of the petitioner is that the said certificate, Annexure P-1 was produced by him before the Staff Selection Commission on 19.11.2011 when the process of selection was going on. So far as, the respondents are concerned they have placed on record Annexure R-1, certificate dated 09.05.2007, whereby petitioner was declared to be a member of OBC. It is the case of the respondents that in fact the petitioner had placed on record the certificate Annexure R-1 and not Annexure P-1.

Annexure R-2 is the undertaking given by the petitioner that his OBC certificate was not as per the proforma prescribed by the Staff Selection Commission nor it had been made within stipulated period (last three years). Petitioner further stated that he may be permitted at his own risk to appear for the medical examination as a general candidate. In this regard, the decision of the Commission would be acceptable to him.

Thus, from Annexure R-2 undertaking given by the petitioner himself, before his medical examination, it is evident that petitioner had produced OBC certificate, Annexure R-1. Petitioner had himself submitted the undertaking that his case be considered as a general candidate as the OBC certificate produced by him was not as per prescribed proforma.

In view of the undertaking submitted by the petitioner himself Annexure R-2, no ground is for interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India is made out.

Dismissed.

January 27, 2016
Ramandeep Singh

(SABINA)
JUDGE