

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 14573 of 2016 (O&M)

Date of Decision: 04.08.2016.

Jitender Singh

--Petitioner

Versus

State of Haryana and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

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

TEJINDER SINGH DHINDSA.J

Challenge in the instant writ petition is to the order dated 25.1.2016 (Annexure P-3), passed by the Additional Chief Secretary to Govt. of Haryana, Irrigation and Water Resources Department in terms of which a representation preferred by the petitioner seeking his claim for appointment to the post of Canal Guard, has been rejected.

The entire case made out by counsel appearing for the petitioner is that 26 posts of Canal Guards were to be filled up in Bhakra Water Services Circle, Kaithal and in the process of selection that had been conducted only nine posts have been filled up from amongst the general category candidates. It has been argued that reservation could not have exceeded the outer limit of 50% and out of 26 number of posts, 13 posts rightfully should have been filled up from amongst the general category candidates, whereas the select list reflects that only 9 posts have been filled up from such category. Counsel contends that as per result declared the petitioner is at Sr. No.3 in the waiting list for general category and in the eventuality of the department filling up 13 posts of Canal Guards from the general category, then the petitioner was clearly vested with a right to be appointed on the post of Canal Guard.

Having heard learned counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that the writ petition is bereft of merit and deserves dismissal.

Brief facts that would require notice are that advertisement had been issued by the Irrigation Department, Haryana on 20.4.2011 (Annexure P-14) inviting applications from male candidates to fill up 712 posts of Canal Guards (Group D), Irrigation Department, Haryana in the pay scale of Rs.4440-7440+1300 G.P. In the advertisement itself educational qualifications, procedure to apply, application fee and the selection procedure etc. had been delineated. All the candidates were informed that for further details they could visit *Sarkari Naukri-Canal Guard in Haryana*.

There is no dispute as regards the fact that 26 posts of Canal Guards were to be filled up at the Bhakra Water Service Circle, Kaithal.

The petitioner claims to be belonging to the general category and had submitted his application for the post of Canal Guard at Kaithal Circle.

Having subjected himself to the process of selection, the same had culminated in the declaration of result by the Chairman, Selection Committee-cum-Superintending Engineer, Bhakra Water Service Circle, Kaithal (Annexure P-16). Perusal of the same would reveal that 9 posts have been filled up from amongst the general category, 3 from S.C category, 2 from B.C (A) category, 2 from B.C (B) category and 5 posts from Ex-servicemen category and i.e. a total of 21 posts. The note appended in the result itself shows that 2 posts of Ex-servicemen B.C(A) category, 1 post of Ex-servicemen S.C category, 1 post of Sportsman S.C category and one post

of Sportsman B.C(A) category had remained vacant due to non-availability of the suitable candidates. Undoubtedly, the petitioner who had been assigned Roll No.3358 figures at Sr. No.3 in the waiting list of general category candidates.

Even though, the pleadings on record are deficient with regard to the precise reservation that had been provided for the process of selection but the result at Annexure P-16 itself makes it apparent that certain backlog vacancies pertaining to the reserved category have been considered and filled up in the selection and appointment to the post of Canal Guards in pursuance to the advertisement at Annexure P-14.

Counsel appearing for the petitioner would contend that there was no stipulation as regards backlog vacancies being filled up in the advertisement at Annexure P-14. Such submission is without consequence. In the advertisement at Annexure P-14 there was no provision for reservation at all. Clearly, such reservation and the necessary details thereof were obviously posted on the website and for which all the candidates had been informed in the advertisement. On such aspect counsel would submit that the petitioner did not have the relevant information.

The petitioner having earlier approached this Court by filing CWP No.16059 of 2015, this Court had directed the respondent department to consider his claim in the light of a representation dated 10.11.2014 and to thereafter pass a speaking order.

In purported compliance of the directions passed by this Court, the impugned order dated 25.1.2016 (Annexure P-3) has been passed.

Perusal of the same clearly reveals that the petitioner had applied for the post of Canal Guard against general category and he had

been duly considered for such category in relation to 26 posts of Canal Guards to be filled up in Kaithal Circle. In the waiting list his name figured at Sr. No.3. It has also been observed in the impugned order that a waiting list was valid only for six months and the validity period of which has since expired.

It is not the case of the petitioner that any candidate possessing lower merit than the petitioner has been appointed to the post of Canal Guard in the general category. Even candidates at Sr. Nos. 1 and 2 in the the waiting list and who obviously have a prior right to the petitioner have not been offered appointment.

In view of the above, this Court does not find any infirmity in the action of the respondent authorities in having rejected the claim of the petitioner for appointment to the post of Canal Guard in the light of impugned order dated 25.1.2016 (Annexure P-3).

Petition, accordingly, is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

04.08.2016
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Whether speaking/reasoned: Yes

Whether Reportable: Yes