

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

107+272

**CWP No. 2140 of 2016 (O&M)
Date of decision:09.12.2016**

Gurinder Singh

.... Petitioner

Versus

Union of India and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

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

Ms. Anita Balyan, Advocate for the respondents-UOI

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has assailed the order dated 30.11.2015 vide Annexure P4.

2. The respondents have notified vacancies for the post of Constables (GD) in CAPFs and Rifleman (G.D.) in Assam Rifles, 2013 for the month of 2012. The petitioner is a candidate for the recruitment. He was selected and sent for training on 11.10.2014. While he was undergoing training, on 30.11.2015 his selection has been cancelled vide office order dated 30.11.2015 with reference to the amended result. The petitioner was to complete the training on 29.01.2016.

3. The petitioner has questioned the validity of the office order dated 30.11.2015 (Annexure P4) on the ground that no notice has been given to the petitioner as required under Rule 16 of Central Reserve Police Force Rules, 1955 which provides that one month notice is required to be given before order of termination. It was further contended that para 10 of

the advertisement provides for merit-cum-option in different CAPF for the State and further to divert the candidates from the surplus states to deficit states after accommodating all available candidates in such deficit states.

An extract of para 10 reads as under:-

“(iii) Allotment of CAPF to the candidates selected from each state will be on merit-cum-option depending on availabilities of vacancies in each CAPF for the State.

(iv) The Commission, with the approval of the Ministry of Home Affairs, shall have the discretion to divert candidates from Surplus States of deficit States, after accommodating all available candidates in such deficit states, subject to category-wise reservation being maintained.”

4. In view of the above clause the petitioner should have been accommodated since the training is common irrespective of candidates from any State. Therefore, office order dated 30.11.2015 is liable to be set aside.

5. Learned counsel for the respondents submitted that the petitioner while submitting application, in the application form even though he is from State of Haryana wrongly mentioned code as 12 whereas the code relating to Haryana is 13 and the code No.12 is relating to Gujrat. Having regard to the code mentioned by the petitioner he has been selected and sent for training as if he is from Gujrat. It was submitted that in the State of Haryana, the cut off marks in OBC candidates is from 83 to 88 for different disciplines like BSF, CRPF, ITBP and Assam Rifle. Whereas, the petitioner has secured 49 marks therefore, he cannot be accommodated in the State of Haryana where he has submitted his application and he belongs to Haryana State. It was further contended that the petitioner cannot be accommodated

in the Gujrat State having regard to the fact that he do not belong to Gujrat State.

6. Heard learned counsel for the parties.

7. Perusal of the records, it is evident that both the petitioner as well as respondents have committed error. Firstly petitioner has committed an error while furnishing the State code as 12 in stead of 13 as he is domicile of Haryana State. Even though, if it is typographical error the respondents could have rectified with reference to application wherein the petitioner has stated that he is from Haryana. Only in respect of writing/typing State code as 12, the respondents after considering the petitioner's candidature selected and sent him for training on 11.10.2014 and he was about to complete training on 29.01.2016 defect in the application form, has been taken note of and selection has been cancelled on 20.11.2015, whereas, para 10 of the advertisement vide Annexure P1 provides for shifting/diverting the candidates from surplus states to deficit states. In view of the error committed by both the petitioner as well as respondents in the matter and that the error committed by the petitioner is only a clerical. Having regard to the merit is concerned, petitioner is not entitled for the State of Haryana. Even if the petitioner is to be accommodated in Gujrat State having regard to the marks obtained by him still the candidates who are in the State of Haryana who have secured more marks than the petitioner, they would be denied the benefit of selection. Therefore, the petitioner is not entitled for selection. Contention of before passing the impugned order, no notice has been given is concerned, no doubt Rule 16 of Central Reserve Police Force Rules, 1955 provides for issuance of notice, even notice is given to the petitioner, the petitioner

cannot improve things like marks so as to claim selection and appointment as a Constable (G.D.) in State of Haryana. Having regard to the cut off marks of OBC candidates is from 83 to 88 in difference discipline and petitioner has secured only 49 marks. Therefore, non-compliance of Rule 16 or issuing notice is only an empty formality. Thus, the petitioner has not made out a case so as to interfere with the office order dated 03.11.2015.

8. Having regard to the fact that petitioner has been unnecessarily allowed to undergo for a training for more than one year and an assurance has been given to him about selection and appointment to the post of Constable. Faced with mental agony. The respondents are liable to pay cost of Rs. 1 lac for inconvenience made to the petitioner. Cost shall be paid by the respondents within a period of 3 months from today.

09.12.2016

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No