

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

**C.W.P. No. 21684 of 2016
Date of Decision:- 20.10.2016**

Mantej Singh and others

....petitioners

vs.

State of Punjab and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. K.S. Sidhu, Sr. Advocate with
Mr. M.S. Brar, Advocate,
for the petitioners.

DAYA CHAUDHARY, J.

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a Writ in the nature of Certiorari for quashing the provisions contained in Advertisement dated 31.5.2016 (Annexure P-2) for recruitment to the post of Constables qua awarding of marks on the basis of educational qualifications of 10+2, as mentioned in para No.9 thereof, and for not awarding any marks for higher qualification.

Briefly, the facts of the case, as made out in the present petition, are that respondent No.2 issued an Advertisement dated 31.5.2016 (Annexure P-2) for recruitment of 7416 Constables in District Police cadre as well as Armed Police cadre for males and females. Out of said posts, 3751 posts were advertised for male candidates for District Police Cadre

and 2501 posts for Punjab Armed Police cadre. Total posts for males in both the cadres were 6252. Last date for submission of application form was 21.6.2016. Petitioners being eligible and qualified, applied for the post of Constable in both the cadres. The criterion of awarding marks has been given in para no. 9 of the advertisement wherein it is mentioned that only percentage of marks in 10+2 Board examination is to be considered for general category candidates and percentage of marks in Matriculation examination is to be considered for candidates belonging to Ex-servicemen category, whereas, no marks are to be granted for higher qualification.

The grievance of the petitioners is that respondent No. 3 has introduced internal assessment of 30% marks from academic session 2012-2013 calling it continuous and comprehensive evaluation, due to which the candidates, who have passed 10+2 examination after 2012-2013 have got very high percentage of marks on the basis of 30% internal assessment. This condition mentioned in the Advertisement is totally disadvantageous to the petitioners, who have passed 10+2 examination before Session 2012-2013. Learned counsel submits that only the candidates who have passed 10+2 examination after session 2012-2013 are likely to be included in the merit list as neither any written test has been prescribed to adjudge the intelligence of a candidate nor any marks have been provided for higher qualification. This benefit is not available to the candidates, who have passed the required qualification prior to Session 2012-2013 as the internal marks were not awarded prior to Session 2012-2013. The percentage of marks has been increased due to internal assessment. Learned counsel also submits that by considering the percentage of marks, extra advantage has

been given to candidates who have passed 10+2 examination from March 2013 to March 2015. At the end, learned senior counsel submits that the criteria, which is being adopted by respondent No.2, for selection to the posts of Constable is not only illegal, arbitrary and discriminatory but the same has been adopted just to give benefit to those candidates, who have passed 10+2 examination between March 2013 to March 2015 and the same is liable to be struck down.

I have heard arguments of learned counsel for the petitioners and have also perused the documents available on the file.

Petitioners have challenged the criteria mentioned in para No.9 of the advertisement whereby the percentage obtained in 10+2 Board Examination has to be considered for General category candidates whereas percentage obtained in Matriculation examination has to be considered for Ex-servicemen category, only on the ground that due to 30% internal assessment marks, the candidates, who have passed 10+2 or Matriculation examination after 2012-2013 are likely to be benefited. This condition is disadvantageous to the petitioners and other similarly situated persons, who have passed their requisite qualification prior to 2012.

Undisputedly, it is for the employer to prescribe criterion/academic qualifications by considering the nature and requirement of post. Simply by saying that the petitioners and other similarly situated candidates have passed the educational qualification before Session 2012-2013 and 30% internal assessment marks were not granted to them, whereas, the candidates, who have passed the qualification on or after Session 2012-2013 are likely to be benefited, is not a ground to challenge

the criteria. The interest of any individual is not to be considered while determining the qualification for a particular post. Moreover, it is not the job of the Court to see as to which criteria is more appropriate while selecting the candidates for a particular post. While taking care of the rights of the candidates, the Court cannot lose sight of the requirement specified by the Selecting Authority. The same issue was raised before Hon'ble the Apex Court in case **Haryana Public Service Commission vs. Amarjeet Singh**, reported as 1999 SCC (L&S) 1451. In the said case the issue was with respect to the selection for the post of Agricultural Engineers and the Subject Matter Specialists in the Department of Agriculture. The Haryana Public Service Commission had allocated marks for higher qualification and specialized training to the extent of 40% of the marks. The High Court had interfered therewith as being arbitrary and directed the Commission to send the names of Respondents No. 1 and 2 for appointment after stating as to what marks should have been allotted to them in the interview. Hon'ble the Apex Court held that though the standard adopted by the Public Commission may be defective but the same standard was applied to all, and did not prejudice respondents No. 1 and 2 or any other candidate. The observations made by Hon'ble the Apex Court is reproduced as under:-

“3. When uniform process had been adopted in respect of all and selections had been made, it was highly inappropriate for the High Court to have examined the matter in further detail and to have allocated marks to the two candidates and thereafter directed the appellant

Commission to select them.”

In **Barot Vijay Kumar Balakrishna and others vs. Modh Vinay Kumar Dasrathlal and others**, 2011 (3) SCT 820, the Rules framed under Article 309 of the Constitution of India governing the selection process for the posts of Assistant Public Prosecutor in the State of Gujarat mandated that there would be minimum qualifying marks each for the written test and the oral interview. In that case cut-off marks for viva-voce were not specified in the advertisement. It was observed by Hon'ble the Apex Court that in view of that omission, there were only two courses open. One, to carry on with the selection process, and to complete it without fixing any cut-off marks for the viva-voce, and to prepare the select list on the basis of the aggregate of marks obtained by the candidates in the written test and the viva voce. That would have been clearly wrong, and in violation of the statutory rules governing the selection. The other course was to fix the cut-off marks for the viva voce, and to notify the candidates called for interview. This course was adopted by the Commission just two or three days before the interview. Yet it did not cause any prejudice to the candidates, and hence the Court did not interfere in the selection process.

In the present case, uniform formula has been adopted and it cannot be said that this formula is in the interest of some of the candidates, who passed the requisite qualification after Session 2012-2013. It cannot be said that there is discrimination for some of the candidates, as the internal assessment marks were not given to those candidates who have passed the requisite qualification prior to Session 2012-2013.

In view of the facts as mentioned above, it cannot be said that the criteria is bad as it does not suit to some of the candidates. The action of the respondents in fixing the criteria cannot be said to be arbitrary or discriminatory in any manner. Accordingly, there is no merit in the contentions raised by learned counsel for the petitioners and petition being devoid of any merit is hereby dismissed.

October 20, 2016
poonam

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No