

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

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CWP No.19728 of 2013 (O&M)

Date of Decision: September 20, 2017

Harpreet Singh

....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. K.S. Brar, Advocate
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

TEJINDER SINGH DHINDSA, J. (Oral)

Petitioner applied for the post of Constable in the District Police Cadre, pertaining to District Faridkot in a recruitment process, that was initiated in the light of advertisement dated 12.09.2010 (Annexure P-1), issued by the Director General of Police, Punjab. Petitioner had applied in the Backward Class Category. In the process of selection, merit of the petitioner was determined as 26.5 marks. Last candidate, selected in the Backward Class Category, also secured 26.5 marks but, being younger in age, was preferred over and above the petitioner.

The instant petition was filed raising a grievance that height of the petitioner is 5'11" and as per selection criteria, disclosed in the advertisement, he was to be awarded 14 marks. To the contrary, petitioner had been awarded 13 marks, pertaining to his

height, having been measured incorrectly as 10³/₄". It was accordingly argued by counsel that if height of the petitioner was to be correctly recorded and he was given 14 marks instead of 13, he would have secured appointment to the post of Constable against the reserved Backward Class Category.

The instant petition had come up for preliminary hearing before this Court on 06.09.2013 and whereupon, directions had been issued to the petitioner to present himself before the SMO, Mohali to have his height measured and subject to deposit of sum of Rs.25,000/- with the Registrar of this Court.

It has gone un-controverted that the petitioner had appeared before the SMO, Mohali and a Medical Report was placed on record and the assertion of the petitioner i.e. height, being 5'11", was found to be correct.

Under such circumstances, petitioner was clearly vested with a right to be granted one more mark towards height and consequently to secure total marks of 27.5 as opposed to the last selected candidate in the Backward Class Category, who had secured 26.5 marks.

On the last date of hearing, learned State counsel had sought time to complete instructions as to whether respondent-authorities are ready and willing to adjust the petitioner and to appoint him as Constable in the Backward Class Category.

During the course of resumed hearing today, Mr. Avinit Avasthi, AAG, Punjab, on instructions from Mr. Yadwinder Singh, DSP,

Investigation, Faridkot(Punjab), apprises the Court that the respondent-authorities are ready and willing to appoint the petitioner to the post of Constable in the Backward Class Category and in relation to the recruitment process, that was initiated way back in the year 2010. Learned State counsel further makes a statement that such appointment would relate back to a date in the year 2011 i.e. the date, the last selected candidate in the Backward Class Category had been so appointed on the post of Constable.

Counsel representing the petitioner is ready and willing to accept such offer and makes a statement at the bar that if the appointment letter in favour of the petitioner on the post of Constable (Backward Class Category) is issued within a period of six weeks from today, petitioner would forego the arrears of salary for the period in question.

In view of the above, the present petition is allowed. State is held to be bound by its offer made in Court today. Appointment letter for the post of Constable (Backward Class Category) in the District Police Cadre, Faridkot, be issued to the petitioner within a period of six weeks from today. Such appointment would relate back to the point of time when the last selected candidate in the Backward Class Category pertaining to the advertisement dated 12.09.2010 (Annexure P-1) had been so appointed. Petitioner would also be entitled to consequential benefits in the nature of continuity in service, seniority etc. Pursuant to such appointment, the financial benefits however would be granted to the petitioner only on notional

basis.

Petition is allowed in the aforesaid terms.

Liberty is granted to the petitioner to file appropriate application for release of Rs.25,000/- that were deposited with the Registrar of this Court in terms of order dated 06.09.2013.

(TEJINDER SINGH DHINDSA)
JUDGE

20.09.2017
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***Whether speaking/reasoned* : Yes/No**
***Whether reportable* : Yes/No**