

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

207

CWP No.2335 of 2013 (O&M)

Date of Decision: August 31, 2017

Nirmaljeet Kaur

....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Manish Prabhakar, Advocate
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

TEJINDER SINGH DHINDSA, J. (Oral)

Petitioner who belongs to the reserved SC (M&B) Category, had applied for the post of Forest Guard under the Forest Department, State of Punjab, in pursuance to advertisement dated 15.05.2012 (Annexure P-2), issued by the Subordinate Services Selection Board, State of Punjab.

The instant petition has been filed, assailing the order dated 18.12.2012 (Annexure P-1) and whereby, the name of the petitioner stands deleted from the select list for the post in question and as such, petitioner has been denied appointment to the post of Forest Guard.

Learned counsel representing the petitioner would vehemently contend that in the process of selection, the petitioner

had secured 76% marks and on the basis of which, she had been permitted to participate even in the process of counselling. It is further submitted that the merit of the last selected candidate to the post of Forest Guard in the Category of SC (M&B) was 75.78% and under such circumstances, the action of the respondent-authorities in deleting the name of the petitioner from the select list, would be arbitrary and violative of Articles 14 & 16 of the Constitution of India.

Counsel for the parties have been heard.

Perusal of the advertisement dated 15.05.2012 at Annexure P-2 would reveal that a total of 231 posts of Forest Guards had been advertised and 45 posts were reserved for the SC Category.

The essential educational qualification prescribed for the post was Senior Secondary Part-II or any equivalent qualification from any recognized university or institution.

The selection procedure was also detailed in the advertisement and it was laid down that merit would be prepared on the basis of percentage of the marks obtained in the basic essential educational qualification. As per merit so determined, five times of the candidates of different categories were to participate for a walk test as also a physical measurement. Candidates who qualify the walk test as also physical measurement, were to be called for the process of counselling and the selection of the candidates was to be made on the basis of merit prepared on the basis of percentage of marks in the essential educational qualification.

In the written statement filed on behalf of respondent No.2/Subordinate Service Selection Board, Punjab, the matter has been clarified that the petitioner at the stage of submitting her application form had stated her percentage is 76% in the 10+2 examination (vocational stream) i.e. having obtained 342 marks out of a total of 450 marks. It is on the basis of such declaration that the petitioner was permitted to participate in the different stages of selection. It is not disputed that the petitioner had passed the walk test and had also met the bench mark at the stage of physical measurement and as such, had even been permitted to participate in the counselling process. The name of the petitioner figured in the select list on the basis of her declared percentage as 76% in the basic education qualification. However, prior to issuance of formal appointment letters, an exercise of scrutiny and rechecking was conducted on the basis of the original certificates/documents produced by the candidates at the stage of counselling. At that stage, the respondent-Board became aware that the marks obtained by the petitioner in the 10+2 examination i.e. 342, were against a total maximum marks of 500 and not 450. Accordingly, the merit as per selection criteria laid down in the advertisement, was re-worked and which came to 68.40% i.e. 342 out of 500.

To substantiate such stand, a tabulation has been furnished in Para 9 of the reply filed on behalf of respondent No.2-Board and the same is extracted here under:-

Table-II

Sr. No.	(A) Compulsory Subjects	Marks obtained	Pass Marks	Maximum Marks
1.	General Punjabi	63	25	75
2.	General English	54	25	75
3.	Environment Education	26	17	50
	(B) Elective Subjects			
1.	Object Oriented Programme	57	27	80
2.	Desk top Publishing	48	27	80
3.	Advance Mathematics & Computer Communication Applns.	42	27	80
4.	On the job training	52	20	60
5.	General Foundation Course/Grade	B	E	A
	Total	342		500

It has gone un-controverted that the merit of the last selected candidate in the category of SC(M&B) is 75.78% while the petitioner has secured 68.40% marks.

No exception as such, can be taken to the decision of the respondent-authorities in having deleted the name of the petitioner from the select list vide impugned order dated 18.12.2012.

At this stage, counsel representing the petitioner would urge that the mistake if any, was at the hands of the respondent-authorities and the petitioner having been permitted to participate in all the stages of selection, it would be too late in the day to deny to the petitioner appointment to the post. Such submission is being noticed only to be rejected. The marks obtained by the

petitioner as opposed to the maximum marks in relation to the compulsory subjects and elective subjects as per tabulation reproduced hereinabove, are not disputed by counsel for the petitioner. That apart, Mr. Avinit Avasthi, AAG, Punjab, on instructions from Rajinder Kumar, Research Assistant, Forest Department, has even made available for perusal of this Court, the original application form, that had been submitted by the petitioner for the post of Forest Guard wherein she had herself declared her total marks i.e. 342 out of 450 instead of a total of 500. Apparently, it is the petitioner herself who had committed the mistake at the very inception. It does not lie in the mouth of the petitioner to now contend that an error that had been committed, cannot be rectified.

In view of the discussion above, there is no merit in the petition and the same is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

31.08.2017
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Whether speaking/reasoned : **Yes/No**
Whether reportable : **Yes/No**