

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

**CWP-19801-2017 (O&M)
Date of decision:06.09.2017**

Karanbir Singh

... Petitioner

Vs.

State of Punjab & others

... Respondents

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

Present: Mr. GPS Bal, Advocate for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

...

TEJINDER SINGH DHINDSA, J.

The instant petition is directed against the order dated 10.08.2017 (Annexure P-5) issued from the office of the Director General (Information Technology and Telecommunication), Punjab and whereby the appointment letter issued to the petitioner dated 09.03.2017 on the post of Constable Operator has been withdrawn/cancelled.

Counsel submits that advertisement dated 14.08.2016 (Annexure P-1) was issued by the Inspector General of Police-cum-Chairmain, Recruitment Board, IT & T Wing, Punjab inviting applications for filling up a number of vacancies of Constables including 244 vacancies of Constable Operators. The last date for submission of online applications was stipulated as 05.09.2016. It is urged that the petitioner having submitted his application online was permitted to participate in the various stages of selection. Appointment letter dated 09.03.2017 (Annexure P-2) was issued

in favour of the petitioner and in pursuance to which the petitioner duly joined on the post of Constable Operator. It is argued that the action of the respondent/authorities in having cancelled the appointment vide impugned order dated 10.08.2017 after a period of having served on the post for a period of almost four months would be extremely harsh.

Mr. Bal, learned counsel representing the petitioner would very fairly concede that even though the petitioner did not possess the basic essential qualifications for the post as laid down in the advertisement dated 14.08.2016 (Annexure P-1), yet there was no misrepresentation on the part of the petitioner. It is urged that the respondent/authorities ought to have verified the qualifications possessed by the petitioner at the very threshold and since the petitioner had negotiated the selection process successfully, had been issued appointment letter and has served for a period in excess of 4 months on the post, he would be vested with a right to continue. A plea of discrimination has also been raised by contending that even private respondents No.5 to 7 did not possess the essential qualifications prescribed, yet were issued appointment letters and till date, no action has been initiated against them. Action of the respondent/authorities in having singled out the present petitioner is stated to be in violation of Articles 14 and 16 of the Constitution of India.

Counsel for the parties have been heard at length and the pleadings on record have been perused.

The advertisement dated 14.08.2016 and in terms of which the recruitment process had been initiated has been placed on record and appended as Annexure P-1. The essential educational qualifications for the

post of Constable (Operator) were in the following terms:

“C. EDUCATIONAL QUALIFICATIONS

Constable (Operator):-

10+2 (with Physics as one of regular subjects) from the State Board of Education/Any recognized Board or University with at least six months basic computer course (at least 200 hours) from an institute recognized by the Government;

OR

10+2 (with Physics as one of the regular subjects) from the State Board of Education/any recognized Board or University and B.Sc. (I.T.) or Bachelor in Computer Applications from a recognized University;

OR

Matriculation from the State Board of Education/Any recognized Board and Diploma in Computer Engineering/Diploma in Electronics and Communication Engineering (Duration 3 years) from a recognized State Polytechnic Institute/College approved by All India Council of Technical Education (AICTE);

OR

Graduation in the field of Electronics/Electronics and Communication from a recognized University.”

Clause 14 of the advertisement would be relevant to the issue at

hand and reads as follows:

“PROVISIONAL SELECTION

The selection in the Recruitment Process shall be absolutely provisional, and it shall be subject to the following mandatory clearances:

(a) Medical Examination,

(b) Character and antecedents verification, and

(c) Verification of his/her educational qualification

Certificates from the concerned Boards/Universities.

Any deficiency/infirmity in any of these above mentioned

parameters can render the rejection of the candidature of the candidate/ selection of the candidate invalid.

(For details on Medical Examination parameters and the verification process, refer to the Standing order No.4 of 2016 and the Advertisement document on recruitment website). ”

The admit card that had been issued to the petitioner carried the following note:

“Note: The candidate is admitted to the Recruitment Centre provisionally based on the age criteria and the educational qualification as furnished by him/her in the Online application Form. The detailed scrutiny of eligibility of the candidate would be done only at the final stage of the recruitment process.

As such, the candidature of the candidate shall remain provisional till detailed scrutiny of Educational/Technical certificates/documents as per standing order are undertaken and the candidate is found eligible in all respects. Punjab Police would be at liberty to reject any application at any stage of the recruitment process. If the candidate is found ineligible for the post or if it comes to notice that the candidate has furnished false information. The decision of the Punjab Police shall be final in deciding the eligibility of the candidate.

The mere fact that a Provisional Admit Card has been issued to the candidate will not imply that his/her candidature has been finally cleared or that entries made by the candidates in his/her application has been accepted as true and correct. ”

Still further, the appointment letter dated 09.03.2017 at Annexure P-2 issued to the petitioner clearly recited that the selection and appointment of the petitioner is provisional. Condition No.14(i) of the appointment letter clearly put the petitioner to notice that the appointment was subject to verification of all original certificates i.e. educational, caste,

wards of police personnel, freedom fighter, Ex. Serviceman or any other certificate etc. on the basis of which reservation benefit has been sought. Such condition stipulates that the certificate would be got verified from the concerned Educational Board/University/Institution or the issuing authority and in case any certificate is found duplicate or false then the appointment letter was liable to be cancelled.

Adverting back to the facts of the present case, the conceded position is that the petitioner does not possess the basic essential qualification of 10+2 with Physics. The petitioner had been permitted to participate in the selection process subject to verification of his educational qualifications subsequently. This would also be apparent from the note contained in the admit card issued to the petitioner and as reproduced herein above. Furthermore, the advertisement itself envisaged that selection in the recruitment process would be provisional and would be subject to a medical examination, character and antecedents verification and verification of his/her educational certificates. As per Clause 14 of the advertisement, any deficiency/infirmity in the parameters including that of educational qualifications possessed would entail rejection of the candidature of the selected candidate.

The appointment letter and joining of the petitioner on the post of Constable (Operator) was also subject to verification of the educational qualifications possessed by the petitioner. The various conditions referred to by this Court herein above, be it in the advertisement, admit card or in the appointment letter show that it is not only on furnishing false information but even in the eventuality of a candidate not possessing the requisite

qualifications prescribed that would entail rejection of the candidature of the petitioner. Mere participation in a selection process and issuance of a provisional appointment letter could not vest an absolute and indefeasible right in favour of the petitioner to continue on the post of Constable (Operator) in spite of not possessing the basic essential qualifications for the post i.e. 10+2 with Physics.

It would also be apposite to note that prior to issuance of the impugned order, the respondent/ authorities have adhered to the principle of natural justice. A show cause notice dated 08.06.2017 was duly served upon the petitioner. A reply is also stated to have been submitted by the petitioner and in which it could not be demonstrated that the petitioner held the essential basic qualifications for the post.

Under such circumstances, no exception can be taken to the decision of the respondent/authorities in having withdrawn the appointment letter of the petitioner for the post of Constable (Operator).

The submission advanced by counsel with regard to having been discriminated against and other ineligible candidates being permitted to continue on the post is wholly mis-conceived.

On the last date of hearing i.e. on 01.09.2017, Mr. Avinit Avasthi, learned AAG, Punjab had been directed to complete instructions with regard to the eligibility of the private respondents and as regards the educational qualifications possessed by them. During the course of hearing today, learned State counsel, who is on instructions from Sh. Amarjit Sandhu, PPS, Deputy Superintendent of Police/Telecom apprises the Court that private respondents herein either possessed the qualifications prescribed

in the advertisement or possessed higher qualifications. Be that as it may, even assuming that an ineligible candidate is continuing to hold the post of Constable (Operator), the same cannot be made the basis for seeking directions from this Court to perpetuate such illegality on the touchstone of Article 14 of the Constitution of India and thereby to direct the respondent/authorities to even permit the petitioner to continue on the post of Constable in spite of not possessing the essential qualifications.

For the reasons recorded above, no infirmity is found in the impugned order dated 10.08.2017 (Annexure P-5) and the writ petition is dismissed.

It is, however, clarified that the present order has been passed only in the context of examining the validity of an order withdrawing the appointment letter issued to the petitioner on the post of Constable (Operator) and the same would not be construed as an expression of opinion with regard to appointment on the post in question having been offered in favour of any other candidate.

Dismissed.

06.09.2017

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | Yes |