

C.W.P. No. 8314 of 2016

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 8314 of 2016

DATE OF DECISION:10.10.2017

Rashpal Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Sukhmeet Singh, Advocate
for the petitioner.

Ms. Sudeepti Sharma, DAG, Punjab.

DAYA CHAUDHARY, J.

The present petition has been filed by petitioner-Rashpal Singh under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondent No.3 to consider his claim for recruitment in the Punjab Police as Constable.

Briefly, the facts of the case as made out in the present petition are that respondent No.3 invited applications for filling up 5578 posts of Constables in Punjab Police in the year 2010. The petitioner being eligible applied for the same and his name was shown in the waiting list at Sr. No. 7 as per information obtained by him under RTI. The petitioner also came to know that his claim was rejected on the ground that his date of birth was mentioned as 11.4.1988 in place of 22.7.1990 in the school certificate. The date of birth of the petitioner was wrongly mentioned as 11.4.1988 in the

school certificates, whereas, the correct date of birth is 22.7.1990 and the same was got corrected by the petitioner in his school certificates and submitted to respondent-authorities for considering his claim after correction in date of birth in the school certificates. The petitioner as well as respondents No. 4 to 9 secured 28 marks each and were shown in the waiting list. However, respondents No. 4 to 9 were shown above the petitioner and were selected as well on the ground that they were younger in age to the petitioner. The petitioner made representation to respondent-authorities but the same was not considered. Aggrieved by the action of the respondent-authorities, the petitioner has approached this Court by way of filing the present petition to consider his claim for appointment to the post of Constable.

Learned counsel for the petitioner contends that the date of birth of the petitioner was wrongly mentioned in the school certificate as 11.4.1988 and subsequently it was got corrected and was conveyed to the respondent-authorities but the same has not been considered inspite of making representation and repeated requests. Learned counsel further contends that respondents No.4 to 9 and petitioner secured equal marks i.e. 28 marks and respondents No.4 to 9 were appointed but the claim of the petitioner was rejected only on the ground that respondents No.4 to 9 were younger in age to the petitioner and by considering their date of birth, they have been appointed. The correct date of birth of the petitioner has not been taken into consideration and as such the petitioner was having right to be appointed being younger to respondents No.4 to 9.

In response to notice of motion, reply on behalf of respondents No.1 to 3 has been filed and the same is on record.

Learned State counsel submits that the petitioner remained silent for a period of six years and the present petition is liable to be dismissed only on the ground of unexplained delay. The petitioner did not attach any document in support of his alleged date of birth i.e. 22.7.1990. He has passed 10th class examination in the year 2008 and his date of birth in the said certificate has been mentioned as 11.4.1988. Thereafter he has also appeared in 10+2 examination. The petitioner had neither taken any step to get his date of birth changed in his school certificates nor had produced any copy of order in support of his alleged correct date of birth. The petitioner while filling up his application form himself has mentioned his date of birth as 11.4.1988 and made representation subsequently without annexing any document in support of his corrected date of birth.

None has appeared on behalf of the private respondents inspite of service.

Heard the arguments advanced by learned counsel for the parties and have also gone through the documents available on the file.

Admittedly, post of Constables were advertised in the year 2010. The petitioner applied for one of the same in the General Category by mentioning his date of birth as 11.4.1988 and secured 28 marks. Similarly respondents No.4 to 9 also secured 28 marks. The petitioner as well as respondents No.4 to 9 were kept in the waiting list. Respondents No. 4 to 9 were considered for appointment as they were younger in age to the petitioner. As per case of the petitioner, his date of birth was wrongly mentioned as 11.4.1988, whereas, his correct date of birth is 22.7.1990. During arguments advanced by learned counsel for the petitioner, it is submitted that had his correct date of birth been considered by the

respondent-authorities, the petitioner could have been appointed. No document has been placed on record to show as to how date of the birth of the petitioner has been changed from 11.4.1988 to 22.7.1990. He himself has filled up the application form and the date of birth was taken into consideration. Moreover, the advertisement was issued in the year 2010 and the present petition has been filed in the year 2016. Nothing has been mentioned in the writ petition as well as in the arguments advanced by learned counsel for the petitioner to explain the delay. Even in the representation made by the petitioner to SSP, Moga, it has been mentioned that his wrong date of birth i.e. 11.4.1988 was mentioned due to illiteracy of his parents and later on it was corrected as 22.7.1990. Nothing has been mentioned as to how and when it was corrected. Neither any document was submitted to respondent-authorities while filing representation nor before this Court.

In view of the facts as mentioned above, I am of the view that this petition has been filed after a long unexplained delay and no documentary evidence has been placed on record to show as to how wrong date of birth has been mentioned in the school certificates and how and when it was corrected. Not only on merits but the present petition is also liable to be dismissed on the ground of delay as well.

Accordingly, the present petition is dismissed being devoid of any merit.

October 10, 2017
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No