

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

Reserved on 03.12.2018

Date of decision: December 07, 2018

CWP No.10792 of 2018 (O&M)

Deepak and others

.....Petitioners

Versus

State of Haryana and another

....Respondents

CWP No.11963 of 2018 (O&M)

Prince and another

.....Petitioners

Versus

State of Haryana and another

....Respondents

CWP No.16194 of 2018 (O&M)

Ankush Janghu

.....Petitioner

Versus

State of Haryana and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI
HON'BLE MR. JUSTICE H.S. MADAN**

Present: Mr. Deepak Sharma, Advocate and
Mr. G.S. Gopera, Advocate
for the petitioner(s) (in CWP No.10792 of 2018 and
CWP No.11963 of 2018).

Mr. Mohit Nehra, Advocate
for the petitioner (in CWP No.16194 of 2018).

Mr. B.R. Mahajan, Advocate General, Haryana with
Mr. Samarth Sagar, Additional Advocate General, Haryana.

A.B. CHAUDHARI, J

By this common order, all the above three petitions are being
disposed of.

The petitioners (in CWP No.10792 of 2018) have made the

following prayer:-

“(i) issue an appropriate, writ, order or direction especially in the nature of Certiorari, quashing the impugned notification dated 9.3.2018, Annexure P-6, issued by respondent No.1, amending Rule 12.16 of the Punjab Police Rules, 1934, being ultra vires and violative of Article 14, 16 and 21 of the Constitution of India and also quashing the impugned advertisement dated 16.4.2018, Annexure P-5, issued by respondent No.2 qua inserting three conditions, i.e. (i) medium of examination, (ii) award of five additional marks to the applicant, father, mother, spouse, brother, sister, son and daughter is/was/has not been a regular employee in any Department, Board, Corporation, Company, Statutory Body, Commission or Authority of Haryana Government or any other State Government or Government or any other State Government or Government of India and (iii) award of additional five marks to the members belonging such a denotified tribe (Vimukt Jatis and Tapriwas Jatis) or Nomadic tribe or Haryana which is neither a Scheduled Caste nor a Backward Class, being illegal, arbitrary, discriminatory and unconstitutional as having issued without due application of judicious mind thereby creating a naked eye discrimination between the citizens of the same category in flagrant violation of Articles 14, 16 and 21 of the Constitution of India.”

3. In support of these writ petitions, learned counsel for the petitioners in these petitions submits that three provisions mentioned in Rule 12.16 (8 & 9) of the Punjab Police Rules, 1934, providing for additional marks violates Articles 14 & 16 of the Constitution of India and therefore, these provisions are required to be quashed and after quashing, the selection process can be undertaken. In the body of the petition and the prayer, the challenge is to the first provision regarding 'medium of examination'.

However, learned counsel for the petitioners did not argue on the said provision and in that place, they argued about the provision of additional 7 marks for candidates with higher education, namely, graduate or postgraduate degrees. The second provision was regarding provision of 5 additional marks to those whose close relatives are not in regular Government employment and last provision was award of additional 5 marks to the members belonging to the denotified tribe (Vimukt Jatis and Tapriwas Jatis) or Nomadic tribe, who are neither Scheduled Castes nor Backward Class. Learned counsel for the petitioners vehemently argued that the first provision regarding addition of 4 marks for graduates and 3 marks for postgraduates, is clearly arbitrary and in so far as the candidates who are 18 years old are concerned, they can only pass 12th standard and can, by no stretch imagination, obtain graduate or postgraduate degrees. In other words, according to him, the addition of 4 and 3 marks to a candidate, is totally arbitrary and a candidate of the age of 18 years would be clearly deprived of such marks and therefore, the said provision violates Articles 14 and 16 of the Constitution of India.

In so far as the second provision is concerned, they submitted that the addition of 5 marks to the candidates whose close relatives are not in Government employment would be given 5 marks, is again arbitrary as the said provision has no object which can be achieved and is made with a view to favour such candidates and is in violation of Articles 14 and 16 of the Constitution of India.

As to the third provision, learned counsel for the petitioners contended that addition of 5 marks for the candidate of denotified tribe (Vimukt Jatis and Tapriwas Jatis) or Nomadic tribe is again arbitrary

because for such candidates reservation is already made and therefore, there cannot be addition of marks resulting into double benefit to them and that also violates Articles 14 and 16 of the Constitution of India.

4. *Per contra*, Mr. Baldev Raj Mahajan, learned Advocate General, Haryana vehemently opposed these writ petitions and argued that there is no merit in these writ petitions. According to him, the Government has applied its mind and taken a policy decision with a view to help the persons who have disadvantages in getting Government employment and are socially backward and unable to obtain any employment. He then submitted that grant of additional marks is certainly justified because the Government wants to adopt a humane approach to such candidates in order that deprived class of people also get an opportunity to get Government employment. There is nothing wrong with the policy and on the contrary, there is a benevolent object which is sought to be achieved. He, therefore, prayed for dismissal of these writ petitions.

5. We have heard learned counsel for the rival parties at length. The beneficial provisions which are under challenge are as under:-

“12.16 Procedure for direct recruitment:-

.....

(8) Additional qualification: (10% weightage):-

(a)

(b)(i) For Constable- Education (maximum 07 marks):
Candidates with higher education i.e. with Graduate degree in any stream from a recognized university shall get four (04) marks, while candidates with Post Graduate degree in any stream from a recognized university shall get additional three (03) marks;

.....

(9) Miscellaneous (10% weightage):-

(a)(i) Five (05) marks will be given if no person from amongst the applicant's father, mother, spouse, brother, sister, son and daughter is/was/has been a regular employee in any Department, Board, Corporation, Company, Statutory Body, Commission or Authority of Haryana Government or any other State Government or Government of India.

.....

(iii) Five (05) marks will be given, if the applicant belongs to such a denotified tribe (Vimukt Jatis and Tapriwas Jatis) or Nomadic tribe of Haryana which is neither a Scheduled Caste nor a Backward Class.

.....”

6. At the outset, we find that 4 marks have been provided for a person who is eventually a degree-holder and in addition, 3 marks are provided for a person who is having postgraduate degree. It is a known fact that despite obtaining graduate and postgraduate degrees, the young educated employed are moving here and there for employment. They are unable to have employment having obtained graduate and postgraduate degrees, with great efforts. The Government has decided to add 4 marks for one who is graduate and in addition 3 marks for one who is postgraduate. This would certainly be helpful to the Government because of the higher education of the police constable. It enures to the benefit of State and public at large regarding the advantage of the higher education qualification and also the maturity that is obtained having graduate or postgraduate degrees.

We do not find any violation of Articles 14 and 16 of the Constitution of

India in this provision, which, on the contrary is beneficial for the Government as well as for the Society as such.

7. In so far as the second provision is concerned, we again find that the Government in its wisdom has provided that 5 marks will be added to such candidate whose no close relative is/was/has been a regular employee in the Government and so on and so forth. In other words, the provision has been made with a view to extend benefit of 5 marks to a family member of such a family who could not even once have a Government employment in the family and their own life throughout. We really appreciate such a provision made by the Government of Haryana and would rather praise it as none of the State in the Country has made such a provision nor recognized the unfortunate deprivation of any employment in the Government Departments etc. Thus, this provision is also for the benefit of such candidates whose no family member or close relative enjoyed the Government job at any point of time.

8. The third provision under challenge is regarding allotment of 5 marks to denotified tribe (Vimukt Jatis and Tapriwas Jatis) or Nomadic tribe who are neither Scheduled Castes nor Backward Class. Again as to this provision, we must appreciate the making of such provision by the Government of Haryana. It is then known fact that the Scheduled Castes or Backward Class that is Scheduled Tribe have major chunk of share in the reservation as against denotified tribe (Vimukt Jatis and Tapriwas Jatis) or Nomadic tribe. This class of tribe hardly have any representation in the Government employment as stated earlier, the major reservation goes to others. It clearly appears to us that keeping in mind the deprivation of

impressed by the Government to provide for additional 5 marks. That apart, we find that the petitioners not being the candidates belonging to the reserved category of denotified tribe (Vimukt Jatis and Tapriwas Jatis) or Nomadic tribe will have no *locus standi* to put the challenge to the said provision.

9. We, therefore, find that all the above three provisions do not violate Articles 14 and 16 of the Constitution of India and therefore, we repel the arguments about it. On the contrary, we find that the Government of Haryana in its wisdom understood the plight of the graduates and postgraduates, those families who has never seen any Government employment and the members belonging to denotified tribe (Vimukt Jatis and Tapriwas Jatis) or Nomadic tribe who could hardly get any Government employment. We must appreciate the wisdom with which the State of Haryana has made these provisions.

10. In the result, we find no merit in these writ petitions and hence, we make the following order:-

ORDER

- (i) **CWP No.10792 of 2018, CWP No.11963 of 2018 and CWP No.16194 of 2018** are dismissed;
- (ii) No order as to costs.

(A.B. CHAUDHARI)
JUDGE

(H.S. MADAN)
JUDGE

December 07, 2018
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No