

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

CWP No.3567 of 2012 (O&M)

Date of decision: 09.02.2018

Avtar Singh and others

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. R.K. Arora, Advocate for the petitioner(s).

Ms. Sudeepti Sharma, Addl. A.G., Punjab.

Mr. Vineet Sehgal, Advocate
for respondent Nos. 5 to 10.

Jitendra Chauhan, J. (Oral)

By way of the present petition, the petitioner(s) seek(s) issuance of a writ in the nature of certiorari for quashing the result dated 06.02.2012 (Annexure P-8) declared by respondent No.4 with regard to the recruitment of Male Constables (Annexure P-9 to P-14) which is in violation of Notification (Annexure P-6).

Learned counsel for the petitioners has submitted that the petitioners who are ex-servicemen served the armed forces for more than 16 to 20 years. After their retirement, they were enrolled with the District Sainik Welfare Officer who issued them the certificate to be an ex-serviceman. On 27.09.2011, an advertisement for the recruitment of 3726 Male and 2000 Female Constables in District Police Cadre of Punjab Police was issued by respondent No.2, whereby 13% posts were reserved

for ex-servicemen (ESM) category. The petitioners being eligible applied for the posts, however, they were not selected. Aggrieved thereby, the petitioners sought information under Right to Information Act, 2005 and after receiving the information, it came to notice that the authorities had selected the persons who were still serving the army on the date of advertisement. The sole argument raised by learned counsel is that the persons who were still in army being not Ex-servicemen, are not entitled for appointment and their appointment was illegal and arbitrary and against the advertisement. The information sought under RTI Act had revealed that the petitioners being Ex. Servicemen were undoubtedly on much better footing than the selected candidates i.e. respondent Nos. 5 to 10 herein, therefore, the present petition deserves to be allowed on this score alone.

On the other hand, learned State counsel submits that the selection process was conducted as per prescribed norms and merit, therefore, the present petition deserves to be dismissed.

Learned counsel for respondent Nos. 5 to 10 refers to the instructions dated 02.02.1982, adopted by the State of Punjab to contend that as per instructions, the person serving in the Armed Forces of the Union who on retirement from service would come under the category of ex-servicemen may be permitted to apply for re-employment one year before the completion of the specified terms of engagement and avail themselves of all concessions admissible to ex-servicemen after taking No Objection Certificate from the Department. The private respondents

have rendered more than 15 years of service with the Armed Force and in view of the instructions, they were fully eligible for applying against the advertisement.

Heard, learned counsel for the parties and perused the record.

In the case in hand, the petitioners who are ex-servicemen, after serving the armed forces for more than 16 to 20 years, got discharged/retired. Petitioner No.1 belongs to reserved category (scheduled caste), petitioner No.2 belongs to reserve category (Backward Class) and petitioner Nos. 3 and 4 belong to general category. After their retirement, the petitioners were enrolled with the District Sainik Welfare Officer, which issued them certificate to be an ex-serviceman. On 27.09.2011, an advertisement for the recruitment of 3726 Male and 2000 Female Constables in District Police Cadre of Punjab Police was issued by respondent No.2, whereby 13% posts were reserved for ex-servicemen (ESM) category. In response thereto, the petitioners being fully eligible had applied for the said posts in District Mohali where 200 seats for Male Constables were reserved, out of which 13% seats were kept for ex-servicemen category. The interviews were conducted by respondent No.3 on 10.11.2011 and the final results were declared by respondent No.4 on 21.12.2011 whereby the petitioners were not selected, and thus were constrained to file the present writ petition. The grouse of the petitioners is that the persons i.e. selected candidates, respondents Nos. 5 to 10 were still in army at the time when they applied in pursuance to the advertisement, thus, they cannot be treated as ex-servicemen. The only

controversy which is to be decided is that whether respondent Nos. 5 to 10 were eligible for the post reserved for Ex.serviceman while they were in armed forces. As per instructions vide No.GSR-II/Const.-Arts, 309, 234, 318/82 dated 02.02.1982, adopted by the State of Punjab for selection under ex-serviceman category, the person may be permitted to apply for re-employment one year before the completion of specified terms of engagement after obtaining necessary NOC from the concerned Department. A bare perusal of the record would reveal that respondent Nos. 5 to 10 after rendering more than 15 years of service in Armed Forces were at the verge of retirement when they applied for the posts in question after obtaining NOC from the Army authorities. The fact that the parent Department of respondent Nos.5 to 10 had issued NOC to apply for the said posts itself go to establish that they were eligible at the relevant time. Petitioners as well as respondent Nos. 5 to 10 appeared for the test and interview and after considering relative merit, the private respondents were selected. Thus, in the given set of circumstances, this Court feels that in view of the instructions dated 02.02.1982 and the NOC issued by the competent authority, the private respondents were fully eligible to participate and compete against the posts in question against the category of Ex. Servicemen (ESM). Accordingly, finding no merit in the instant petition, the same is hereby dismissed.

09.02.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :

Yes No

Whether Reportable :

Yes No