

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

1. C.W.P 23175 of 2017

VikashPetitioner
versus
State of Haryana and others ...Respondents

**2. C.M. No. 15059-2018 in/and
C.W.P 25753 of 2017**

SunilPetitioner
versus
State of Haryana and others ...Respondents

Date of decision : 08.10.2018

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Verma, Advocate
for the applicant-petitioner in CWP No. 23175-2017.

Mr. K.K. Chahal, Advocate
for the petitioner in CWP No. 25753-2017.

Mr. Kiran Pal Singh, A.A.G. Haryana

Mr. Rajinder Singh Rana, Advocate
for respondent No. 5-Kurukshetra University

RITU BAHRI, J. (Oral)

C.M. No. 15059-2018 in/and CWP No. 25753-2017

The application seeking preponment of the actual date of hearing is allowed and the main case i.e CWP No. 25753-2017 is taken up by today itself.

CWP No. 23175 and 25753 of 2017

The above said two petitions, as noted above, are being disposed of by this common judgment, having arisen out of the impugned order dated 11.09.2017 (Annexure P-18 in CWP No. 23175-2017) and order dated 04.09.2017 (Annexure P-9 in CWP No.25753-2017) wherein common question

of law involved in both the petitions.

In CWP No. 23175-2017, pursuant to advertisement dated 19.07.2015 (Annexure P-8), petitioner-Vikash had applied for the post of Male Constable and had got 15 marks in the physical screening test, 32.40 marks in the written test and 11 marks in the physical measurement test. In the interview, he was awarded 3 marks, but for the higher qualifications, no marks have been awarded and resultantly, a total of 61.40 marks has been given to him. Reference has been made to the notice issued by the Commission dated 16/17.07.2017 (Annexure P-13), wherein it has been shown that for the B.Cb category, the final cut-off marks was 61.90 and therefore, the petitioner is just short of being selected, only on account of the fact that the marks for higher qualifications have not been granted. It is, thus, the case of the petitioner that even if one mark is granted, he would make the cut and be in the list of successful candidates.

In CWP No. 25753-2017, pursuant to advertisement dated 19.07.2015 (Annexure P-1), petitioner-Sunil had applied for the post of Male Constable under S.C category through online application on 1.10.2015 (Annexure P/3) along with provisional certificate of B.Sc. issued by respondent no.5-University. Thereafter, he went through Physical Screening Test, Knowledge Test, Physical Measurement Test and Interview-cum-Personality Test. As per the result (Annexure P/5) the last selected candidate under the Scheduled Caste category secured 54.60 marks and the petitioner had not made the cut. Accordingly, reference is made to the break up of the marks at page 57 Annexure P/6 to show that total marks awarded to him was 53.80 and 0 mark was awarded on account of higher qualification. It is the case of the petitioner that Result-cum-Detailed Mark Card of 6th Semester of B.Sc. in Graphics & Animation, examination of which was held in May, 2014 was supplied on 9.11.2015. Accordingly, it is his case that benefit of provisional mark certificate

of B.Sc. should be given since the cut off date was of 6.10.2015 and he had already passed his examination of B.Sc. in May, 2014.

Earlier both the petitioners filed CWP No. 18099-2017 and CWP No. 17937-2017 respectively and this Court vide orders dated 24.08.2017 (Annexure P-16 in CWP No. 23175-2017) and 11.08.2017 (Annexure P-8 in CWP No. 25753-2017) directed the respondents to decide the representation of the petitioners but now vide impugned orders, their representations have been rejected on the sole ground that they have acquired the higher qualification after the cut off date i.e 06.10.2015.

On notice, a short reply has been filed on behalf of respondent No. 2 in CWP No. 25753-2017 stating therein that the petitioner was not selected as the last selected candidate in his category i.e S.C category has secured 54.60 marks out of 100 marks and the petitioner secured 53.80 marks. The only stand taken in the written statement that the petitioner has filed the present writ petition after declaration of the final result when he came to know that he is not selected only by 0.80 marks.

Heard learned counsel for the parties.

It is not in dispute that the petitioner-Sunil has passed his 05 year integrated course means 10th Semester on 09.11.2015 i.e before cut off date which was 06.12.2015 but he was given the provisional mark sheet on 20.10.2016. The petitioner has even filled the number of marks obtained in the said examination of B.Sc at the time of giving application itself as he has got the copy of the result. But when he appeared for interview on 20.06.2017, the petitioner was having his provisional mark sheet and he should have been awarded 01 marks for the same.

It is not in dispute that the petitioner-Vikash has passed his graduation in the year 2014-15 i.e before the last date of submission of

application form i.e 06.10.2015. The petitioner was awarded 61.40 marks but was awarded 0 marks for higher qualification. The last candidate in BCB category was shown having secured 61.90 marks. If the petitioner was awarded 01 mark in the head of higher qualification, the total marks of the petitioner would be 62.40 marks which is more than the last selected candidate in petitioner category i.e B.CB. The petitioner has even filled the number of marks obtained in the said examination at the time of giving application itself as he has got the copy of the result. The petitioner was issued provisional certificate of graduation on 17.08.2016 (Annexure P-4) and copy of degree dated 30.09.2016 (Annexure P-5).

Thus, both the petitioners have their higher qualification before the cut off date but the only difference was that they were not having degree before the cut off date. They have even filled their total marks given to them in Graduation/B.SC. They are entitled for 01 marks which is to be given in the interview and if they would be given 01 marks for the higher qualification, their marks would be more than the last candidate in their respective categories.

In view of the above factual position, the writ petitions are allowed and impugned order dated 11.09.2017 (Annexure P-18 in CWP No. 23175-2017) and order dated 04.09.2017 (Annexure P-9 in CWP No.25753-2017) are set aside. The respondents are directed to issue appointment letters to the petitioners on the post of Constable and thereafter send them for training. This exercise shall be completed within a period of two weeks from the date of receipt of certified copy of this order.

October 08, 2018
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No