

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

CWP-25596-2017

Date of decision-26.04.2018

Manoj Kumar

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Gagan Oberoi, Advocate for the petitioner.

JITENDRA CHAUHAN, J.

This writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of certiorari for quashing the selection of reserve category candidates against the general category for the post of Mounted Armed Police by ignoring the eligibility criteria. The petitioner further seeks issuance of writ of mandamus directing the respondents to award additional marks to the petitioner on account of extra height.

Learned counsel contends that the petitioner applied for the post of Mounted Armed Police. He appeared in physical test on 16.11.2016 at PAP Parade Ground, Jalandhar. Thereafter, the final list was prepared and issued by respondent/department in which one candidate appearing at Sr.No.7 who belonged to reserved category was included in the list of general category. It is further contended that respondent No.4 had applied against reserved category by seeking relaxation of age. Once a candidate belonging to reserved category availed relaxation, he cannot be allowed to

change his category from backward to general category. In support of his assertion, learned counsel placed reliance on a judgment passed by Hon'ble the Supreme Court in Civil Appeal No.3609-2017, titled as "**Deepa E.V.Vs.Union of India and others**" 2017 AIR (SC) 1945.

I have heard learned counsel and have gone through the case file.

It is to be noticed that the petitioner applied for the post of Mounted Armed Police. The respondent/Department issued a final merit list wherein respondent No.4 who belongs to scheduled caste category was shown in the general category. The argument of the petitioner that once he has availed benefit, he cannot be allowed to change his category, cannot be accepted for the reason that Hon'ble Supreme Court in "**Jitendra Kumar Singh and another Vs. State of Uttar Pradesh and others**" 2010 (3) SCC, 119, it has been held that relaxation in fees and age cannot be considered as benefit. If a selection criteria is lowered down for a candidate belonging to reserved category then such candidate cannot be allowed to change his category and he competed with general category candidates on the basis of merit which was common for all. The respondent No.4 cannot be said to have availed any benefit. Since respondent No.4 had secured more marks than the last candidate in the general category, the respondent authorities were well within its right to shift him from backward category to that of general category. In Deepa E.V (supra) the post in question was that of Laboratory Assistant Grade-II in the Export Inspection Council of India working under the aegis of the Ministry of Commerce & Industry. The view

taken by the Hon'ble Apex Court was in the light of the Export Inspection Agency (Recruitment) Rules, 1980, as also Department of Personnel and Training proceedings dated 1.7.1998, wherein there was an express bar for the candidates belonging to the S.C/S.T./O.B.C. Who had availed relaxations in the nature of age limit, experience, qualifications, permitted number of chances in the written examination, extended zone of consideration larger than what is provided for General Category candidates for being considered against open/General Category posts. In the present case there is no such bar either under the statutory rules or under any executive instructions. The judgment in Deepa E.V. (supra) is clearly distinguishable.

Thus, in view of the discussion, the present writ petition sans merit, stands dismissed.

(JITENDRA CHAUHAN)
JUDGE

26.04.2018

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No