

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

**CWP No.29067 of 2017 (O&M)
Date of decision: 18.08.2018**

Om Parkash

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.K. Malik, Senior Advocate,
with Mr. Sandeep Dhull, Advocate,
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

Ritu Bahri, J.

The petitioner is seeking direction to the respondents to consider his claim for appointment as Constable against 14 posts of Ex-servicemen General category, remained vacant due to non availability of the candidates, from the waiting list of General category.

Facts not in dispute are that the petitioner had applied for the post of Constable in Haryana Police under General category. As per advertisement, 54 posts were reserved for Ex-servicemen General category. However, 14 posts of Ex-servicemen General category remained vacant due to non availability of the suitable candidates. 15 candidates were kept in the waiting list of General category, as detailed in para No.7 of the petition. Name of the petitioner figured at serial No.15. It is stated in the petition that one Dheeraj Sharma, who was at serial No.1 in the waiting list, was

appointed against one post reserved for General category, as one candidate

of General category did not join. Hence, 14 persons in the waiting list were left to be appointed.

A similar issue came up for consideration before this Court in **Dharambir Singh and others vs. State of Haryana and others**, CWP No.24503 of 2015 (decided on 14.01.2016), wherein reference was made to the clarification dated 04.04.2014 issued by the Chief Secretary, whereby it was clarified that in case no suitable candidate is found for appointment against the posts meant for ESM (SC/BC/General), the same be filled up from the main category i.e. SC, BC or General category respectively and there is no need to re-advertise the vacancy. The benefit of this clarification had not been extended to the petitioners (in that case). Ultimately, the writ petition was allowed following the judgment passed by this Court in **Garima Jindal vs. Haryana Vidyut Parsaran Nigam Ltd. and another**, CWP No.13384 of 2011 (decided on 06.08.2012). The respondent-State did not file any LPA against the said judgment, therefore, the same had attained finality.

In the present case, learned counsel for the petitioners has placed on record copy of judgment passed in **Rakesh Kumar vs. State of Haryana and others**, CWP No.27127 of 2017, decided on 04.12.2017 (Annexure P-11), whereby the petitioners were seeking the same benefit of appointment after converting the posts advertised in the Ex-servicemen Category to the General Category. The said petition was allowed. Similar orders have been passed in **Dharmender Lakra and others vs. State of Haryana and others**, CWP No.21343 of 2014, decided on 15.03.2017 (Annexure P-8) by following the judgment passed in **Dharambir Singh's** case (supra).

The present case is squarely covered by the aforesaid judgments

passed by this Court.

Accordingly, this petition is allowed and a direction is being given to the respondents to fill up 14 posts of Ex-servicemen General category, which remained vacant due to non availability of the candidates, from the waiting list of General category, as per merits. This process be completed within a period of four weeks from the date of receipt of certified copy of this order and compliance report thereof, be sent to this Court.

18.08.2018
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No