

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

**LPA No.854 of 2018(O&M)
Date of decision: 26.07.2018**

Manoj Kumar

... Appellant

Versus

Union of India and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

**Present: Mr. Ajit Kumar Sharma, Advocate for
Mr. Ram Darshan Yadav, Advocate for the appellant.**

ARUN PALLI, J. (Oral)

This is an appeal under clause X of the Letters Patent against an order and judgment dated 16.02.2018, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant had since been dismissed.

In brief, the case set out by the appellant is: Staff Selection Commission (NWR) Chandigarh issued an advertisement dated 05.02.2011 for recruitment of 2583 Constables (GD) in Indo-Tibetan Boarder Police Force (ITBPF). The appellant applied and competed for selection in the OBC Category. He qualified the Physical Standards Test (PST) as also the Physical Efficiency Test (PET), and was thus issued a roll number to appear in the written examination. For he qualified the written examination, he was called for Detailed Medical Examination at ITBP Centre, Narela, Sonapat.

He was found fit in the medical examination. The results were declared on 18.05.2016, but the name of the appellant did not figure in the list of successful candidates. However, subsequently upon an information sought under the Right to Information Act, it transpired that the last selected candidate in the OBC Category had obtained 39 marks in the written examination, whereas the appellant had secured 47 marks. But yet he was declared unsuccessful. Resultantly, the appellant approached this Court vide a writ petition, referred to above, and prayed for setting aside the action of the respondents for not selecting/appointing him on the post of Constable in the OBC Category. However, vide impugned order and judgment, the learned Single Judge dismissed the petition and, thus, this appeal.

We have heard learned counsel for the appellant.

A bare analysis of the impugned order and judgment reveals that the petition preferred by the appellant was dismissed, for, it suffered from gross delay and latches, and since the last selected candidate in the OBC Category, in which the appellant had applied, was not arrayed as party in the writ petition. Further, from the perusal of the records, we find that the necessary documents were verified by the authorities at the time of Detailed Medical Examination, and it was found that OBC Certificate submitted by the appellant was not issued within the stipulated period i.e. within three years before the closing date i.e. 04.03.2011, as mentioned in Para 4(C) of the Notice of the Examination: “... ***Candidates claiming OBC status may note that certificate on creamy layer status should have been obtained within three years before the closing date i.e. 04.03.2011.***” In fact, a copy of the said certificate (Annexure R3) was actually obtained on 08.11.2011 i.e. after the closing date to furnish the application forms. And faced with

this, the appellant conceded before the authorities that as the certificate furnished by him was not obtained within the prescribed period, therefore, he be permitted to appear in the Detailed Medical Examination as a General Candidate. The undertaking submitted by the appellant in this regard reads as under:

“UNDERTAKING

I, Manoj Kumar S/o Shri Zile Singh, Roll No.1801504805, am a candidate for the post of Constable (GD) in ITBP Exam. 2011. The Other Backward Class Certificate submitted by me is not as per the prescribed format of Staff Selection Commission/Not within the prescribed period. Kindly allow to appear in Detailed Medical Examination on my own responsibility, as a General candidate. I shall abide by the decision of the Commission in this regard.

Dated 14.11.2011

**Sd/-
Manoj Kumar”**

Thus, on a specific undertaking furnished by the appellant, he was medically examined as a General Category candidate. And as the last selected candidate in the said category obtained 48 marks, and 47 marks were secured by the appellant he was declared unsuccessful in the General Category. Significantly, despite being conscious of this position, and having furnished an undertaking, referred to above, the appellant concealed this position in the writ petition, and thus he was/is guilty of suppression of material facts.

In conspectus of the above, we are dissuaded to interfere with the impugned order and judgment. The appeal being devoid of merit is accordingly dismissed.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

26.07.2018
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO