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

**Review Application No.2 of 2018 in
CWP No.7309 of 2017
Date of decision: 07.08.2018**

Ajay Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Ms. Shubreet Kaur, Advocate for the petitioner.

Ms. Shruti Jain Goyal, Assistant Advocate General,
Haryana for respondents.

G.S.SANDHAWALIA, J. (Oral)

The review of order dated 4.12.2017 is sought for whereby the writ petition was disposed of as having been rendered infructuous as the petitioner's result which had been kept in sealed cover on account of pendency of the writ petition and on opening the same it was found that the petitioner had got only 51.40 marks in the SC category and the last selected candidate in the said category had secured 54.60 marks and therefore, he did not come in the zone of consideration for the post of Constable (Male) General Duty.

The writ petition had been filed only on the ground that he could not appear in the Physical Measurement Test which was to be held on 25.10.2016 on account of the fact that he was suffering from

Chikungunia.

At the time notice of motion had been issued, it had been held out that the petitioner had appeared in the test on 19.6.2017 in pursuance of advertisement issued by the respondent-Commission on 18.6.2017 (Annexure P/9) and the result of which was declared but kept in sealed cover on 23.6.2017 on account of pendency of the writ petition and the same had taken on record as Annexure P-10. On 6.10.2017 direction was issued for production of the result of the petitioner to find out whether he was within the zone of consideration or not and accordingly the writ petition was disposed of as he did not fall in the zone of consideration.

It is also pertinent to notice that prior to issuance of notice of motion even a query had been put to the counsel that on what account it had led the Commission to have granted extra chance to those persons and whether that extra chance was granted in circumstances similar to those in which the petitioner found himself. Resultantly, the review application was filed in view of the arguments raised which was noticed by this Court on 16.1.2018 which reads as under:-

“Review is sought of the order dated 04.12.2017 on account of the fact that during the pendency of the writ petition, the petitioner had been medically examined for the purpose of selection to the post of Constable. It is further the case of the petitioner-applicant that he was even assigned the 4th Battalion at Madhuban and reliance has been placed upon documents Annexures A-3 and A-4 that he was declared temporarily unfit due to refraction error in his eyes. It is accordingly submitted that the dismissal of the writ petition on account of the fact that he did not fall within the zone of consideration of merit

would not be correct and, therefore, the order is sought to be reviewed.

Notice of the review application.

Ms. Safia Gupta, AAG, Haryana accepts notice on behalf of the respondents and prays for time. Copy of the review application be given to her during the course of the day.

Adjourned to 06.02.2018.”

From perusal of the written statement then filed, defence had been noticed and accordingly original record had been summoned vide order dated 30.4.2018. Relevant portion reads as under:-

“Written statement has been filed by the Commandant, 4th Battalion on behalf of Haryana Armed Police. The perusal of the reply would go on to show that the stand taken is that petitioner succeeded to get his name entered in the list prepared for medical examination of selected candidates and he was inadvertently sent for medical examination at Panipat. The specific stand has been taken that he has secured less marks than the last selected candidate and was never recommended/selected for appointment to the post of Constable male (General Duty), in Haryana Police.

In such circumstances, let the original record be produced from the office of Commission including the list of candidates recommended for appointment in the category in which the petitioner had applied.”

Thereafter on 21.5.2018 record was scrutinized and it was noticed as under:-

“State Counsel has produced the list of 4500 candidates recommended for the appointment in the category. However, the said list does not show the merit of the candidates.

It is the case of the State that the petitioner was

never within the zone of consideration having got 51.40 marks only and the cut-off for the last SC candidate was 54.60 marks.

The medical examination, if any, which was conducted in June, 2017, on the basis of which the present review application has been filed, thus, would be of no help.

Accordingly, let the original record of the merit list be also produced along with the list of recommendations of the candidates produced today.

List on 30.05.2018.”

Accordingly, on 30.5.2018 after going through the record, it was noticed that the petitioner's name and Roll No.10012 55592 did not figure in the list of successful candidates. The result of the roll number-wise merit-list also showed that SC category candidates were selected against the posts of General Category candidates which showed much higher range of merit.

It is, thus, apparent that review was only sought on account of the fact that the medical examination had been done and therefore, respondent was justified in not issuing the appointment letter. From the above orders reproduced, it would be clear that record has already been examined and the petitioner does not come in the zone of consideration and he was below the last candidate selected in his category. Merely because he had been medically examined at the district level inadvertently and was never within the zone of consideration and neither his name has been approved by the Commission in the final selection list, he cannot seek any benefit.

Relief claimed in the writ petition was also only for appearing

in the physical measurement test in which he had already appeared at a

subsequent point of time before notice of motion could be issued and on account of the result being kept in sealed cover, this Court had further asked the respondents to produce the record.

In view of the above facts and circumstances, no case is made out for review of the order dated 4.12.2017 and accordingly, the Review Application is dismissed.

August 07, 2018

Pka

(G.S.SANDHAWALIA)

Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No