

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.7126 of 2019 (O&M)
Date of Decision.15.10.2019

Nitin Rajain

...Petitioner

Vs

State of Haryana and others

...Respondents

Present: Mr. Jasbir Mor, Advocate
for the petitioner.

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

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner has approached this Court by invoking the provisions of Article 226/227 of the Constitution for issuance of writ in the nature of mandamus by considering his claim for selection and appointment against 500 posts of Male Constable under Special Backward Class converted into General Category, in view of the decision of this Court passed in *Garima Jindal Vs. HVPNL and another* passed in CWP No.13384 of 2011.

The facts as emanate from pleadings, are, that in pursuance of the advertisement caused by the Haryana Staff Selection Commission, 5000 posts of Male Constable (General Duty) for the Police Department, Haryana were sought to be filled by way of direct recruitment through Advertisement No.8/2015 dated 19.07.2015 (Annexure P-2) fixing the requisite educational qualification. Petitioner, being an aspirant, possessing the qualification, submitted an application under SBC Category i.e. Special Backward Class as out of the aforementioned posts, 500 posts were kept reserved for SBC

Category.

Physical screening tests were held for a period commencing from 15.06.2016 to 23.07.2016. Candidates, who qualified the aforementioned test were called for written test, held on 28.08.2016. Petitioner appeared in the written test as per notice Annexure P-5 dated 8.8.2016 and its result was declared on 03.10.2016 (Annexure P-6). Candidates in merit list were called for verification/scrutiny of documents cum physical measurement test fixed for 06.10.2016.

Mr. Jasbir Mor, learned counsel appearing on behalf of the petitioner submitted that the petitioner was called for interview twice i.e. on 06.06.2017 and 20.06.017 but he could not appear, for, was undergoing training of Assistant Sub Inspector in Central Reserve Police Force. Petitioner vide Annexure P-9 dated 12.09.017 left services after rendering four months' service and submitted representation dated 05.10.2017 (Annexure P-10) for consideration, owing to the fact that posts of SBC category were still lying vacant.

It is next contended that another representation dated 22.02.2019 (Annexure P-12) was submitted by relying upon Annexure P-13. Mr. Jasbir Mor submitted that since result of the petitioner was withheld and by taking benefit of notice (Annexure P-14) issued to the candidates for interview-cum-personal test for the aforementioned test whereby 500 posts reserved for SBC category were converted into General Category, this Court on account of interim order dated 03.04.2019 directed the respondents to provisionally interview the petitioner. As per the declaration of the result noticed in the previous order scored 68.65 marks in comparison of cut off marks of 51.40, thus, he is entitled for

recommendation to the Department for issuance of appointment letter. There cannot be any delay on the part of petitioner as he approached this Court before second process of recruitment was initiated.

Per contra, Mr. Hitesh Pandit, Addl. A.G., Haryana opposes the prayer by contending that petitioner secured more marks than the General Category and therefore, his candidature was considered under General Category and accordingly, was called for interview on the date fixed i.e. 20.06.2017 but he remained absent. Withholding of the result vide Annexure P-13 was not on account of fact that he was falling under SBC Category, though it should have been cancelled. Notice Annexure P-17 was in respect of the candidates whose result was declared on account of order of the Court, therefore, petitioner could not take the benefit as there is no explanation of approaching the Court from June, 2017 to February, 2019, thus, urges this Court for dismissal of the writ petition.

I have heard learned counsel for the parties and appraised the paper book. Facts noticed above are not in dispute. The question which arises for consideration is whether the candidature of petitioner under the interim order of this Court having secured more marks than the cut off marks can be considered, after second process of filling up 500 posts was initiated, for, reservation under the SBC category was quashed by this Court and fall out of the same was that all the posts were to be considered for General Category but the fact of the matter is that petitioner had secured more marks than SBC and therefore, his candidature was considered in the General Category. He did not appear for interview as he was already in employment and undergoing training as ASI in CRPF and thought to undertake the exercise when he left job on 12.09.2017 (Annexure P-9),

therefore, cannot volte face and claim right of consideration for the post of Male Constable. He was though eligible but missed out the chance of consideration. Under the garb of notice (Annexure P-17) that too in the month of April, 2019 when second process of recruitment for remaining 500 posts was commenced, he cannot be considered under other category despite the fact this Court permitted to interview him provisionally as it would not entail into vested right for claiming recommendation appointment.

In view of observations made herein above, I am of the view that the writ petition sans merit. No ground for interference is made out.

Dismissed.

(AMIT RAWAL)
JUDGE

October 15, 2019

Pankaj*

Whether speaking/reasoned Yes

Whether reportable No