

**243 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No.17133 of 2012 (O&M)
Date of Decision: 21.08.2019**

Harnek Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. D. R. Sharma, Advocate,
for the petitioner.

Ms. Anju Arora, Addl. AG Punjab.

Mr. Rohit Lubana, Advocate for
Mr. Devender Lubana, Advocate,
for respondent No.5.

JITENDRA CHAUHAN J.

By way of the present civil writ petition, the petitioner has sought quashing of order dated 12.07.2012 (Annexure P-7) vide which the claim of the petitioner for appointment to the post of Constable in Punjab Police was rejected.

It is contended that the petitioner a matriculate belongs to Scheduled Caste as certified vide certificate dated 14.11.2011 issued by Tehsildar cum Executive Magistrate S.A.S. Nagar (Annexure P-1). The petitioner was enrolled in the Indian Army on 17.03.1988 as a Scheduled Caste candidate. He was discharged from the Army on 01.04.2012 after rendering devoted services of 24 years and 14 days. The Punjab Police invited applications for filling up 3726 posts of male and 2000 posts of female Constables in the district cadre out of

which 25% posts were reserved for Scheduled Caste candidates. The petitioner applied for the same and in pursuance thereof, roll No.52610 was issued to him. A copy of the scheduled caste certificate was also submitted along with the application. The petitioner secured 28 marks. The petitioner was shocked to learn that he was not treated as a SC candidate and the candidates lower in merit in the SC category were appointed ignoring the claim of the petitioner. Thereafter, the petitioner submitted representation dated 01.02.2012 followed by a legal notice but in vain.

On the other hand, on behalf of the respondents, it is contended that it is mandatory for an applicant to attach the proof of his caste and the petitioner did not attach any proof of his being a member of the Scheduled Caste category. The petitioner was treated as a General category candidate. The petitioner produced the SC certificate only during the interview which ought to have been attached with the application form submitted to the department before the last date. Even the certificate was dated 14.11.2012 which was created after almost a month of last date of the submission of the application. The petitioner was considered in the ex-serviceman category of general category. Though, the petitioner had obtained 28 marks in the ex-serviceman category but in the case of tie, the other qualifications of the candidates are to be seen and the candidate older in age is preferred to the younger one. There was no proof on record reflecting that the petitioner was a SC candidate, therefore, his claim

was rightly not considered under the Schedule Caste category.

Heard.

In paragraph No.7 of the written statement filed by respondent Nos. 1 to 4, it has been specifically admitted that the petitioner had applied for the post of Constable under the SC category. Though, the last date for submission of the applications was 17.10.2012 but it is also an admitted position on record that the SC certificate was produced during the interview on 14.11.2012. This Court has gone through the application form submitted by the petitioner wherein it is clearly reflected that the petitioner had applied under the SC category and the petitioner had served the Indian Army and was inducted as a S.C. candidate.

In view of the above, it is held that even if the certificate of caste is produced later than the date of submission of the applications, it does not disentitle the person from availing the benefit of belonging to a particular caste particularly when the foundation of being a SC category candidate was laid in the application form in the form of reflection that he belongs to SC category.

In view of the above, the present civil writ petition is allowed. The order dated 12.07.2012 (Annexure P-7) is hereby quashed. The respondents are directed to consider and appoint the petitioner on the post of Constable in the Punjab Police by treating him a Schedule Caste category candidate. The necessary exercise be completed within a period of 2 months from the date of receipt of

certified copy of the judgment.

21.08.2019.

(JITENDRA CHAUHAN)

SN

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No