

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15051-2013 (O&M)
Date of decision-28.08.2019

Gurdeep Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Ms. Sonia G. Singh, Advocate with
Mr. Dinesh Maurya, Advocate
for the petitioner(s).

Ms. Anju Arora, Addl. A.G., Punjab.

None for respondent No.3.

JITENDRA CHAUHAN, J.

None has caused representation on behalf of respondent No.3,
therefore, respondent No.3 is proceeded against *ex parte*.

The petitioner has challenged through this writ petition
selection and appointment of respondent No.3 on the post of Constable on
the ground that he being older in age should have been preferred over and
above respondent No.3 as the marks scored by the petitioner and also
respondent No.3 are the same.

Learned counsel for the petitioner submits that the petitioner
who belongs to the Scheduled Caste (Ramdassia) category had applied for

the post of Constable in Mansa District but in the selection process in which the petitioner participated, his name figured in the waiting list along with two more candidates having secured identical merit i.e.26.50. Thereafter, the petitioner applied for information under the RTI Act regarding the policy that if the merit of the candidates is similar then how the tie cases will be resolved, in response, the department of welfare of Govt. of Punjab informed that that in such case, the person elder in age will be selected.

In the present case, petitioner was the eldest and had first right on the appointment but the respondents arbitrarily and illegally appointed respondent No.3 in violation of the Rules.

On the other hand, learned State counsel submits that 09 other candidates of the same category (SC), who were not shown in the waiting list have also scored the same marks i.e. 26.50 and all the candidates are older than the petitioner, in such eventuality, there is no locus standi of the petitioner.

Learned State counsel further states that as per the instructions of the Office of Director General of Police, Punjab, Chandigarh issued vide his office memo No.3474-79/E-1(14) dated 19.03.2010 (Annexure R-I/T), the petitioner cannot be considered for the appointment of constable. As per the instructions, the relevant portion is as under:-

“8. If the marks of two or more candidates are equal in the merit, then, the candidate who is lower in age, be preferred.”

Heard.

In view of the observations as reflected in Annexure R-I/T, it is clear that wherein the candidates scored equal number of marks, the candidate who is younger in age will be preferred. Therefore, the Court feels that no cause of action has accrued in favour of the petitioner to file the present petitioner.

Dismissed.

28.08.2019

ps-I

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No