

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10280 of 2017 (O&M)

Date of Decision: 06.05.2019

Sanjeev Kumar

... Petitioner

versus

Union of India & Ors.

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Pawan Kumar Hooda, Advocate
for the petitioner.

Mr. Shivoy Dhir, Senior Panel Counsel
for the respondents-UOI.

ARUN MONGA, J. (ORAL)

1. Petitioner herein has questioned the legality and propriety of letter dated 04.02.2017 (Annexure P-5) vide which he was declared unfit for being selected as Soldier Tech (Aviation) and further seeking directions to the respondents to consider his candidature in Priority-II against the aforesaid post.

2. Learned counsel for the petitioner contends that the petitioner applied for the post of Soldier Tech(Aviation) under the 'Relation Quota' as his father was a retired disabled Army personnel and is drawing disability pension owing to his 30% disability. The petitioner participated in recruiting rally and he was issued progress card dated 02.01.2017 in priority-II owing to relation quota. He qualified the physical as well as medical examination and was allowed to appear in written examination conducted on 29.01.2017.

3. On 04.02.2017 petitioner came to know that he did not figure in the merit list of State quota. In response to application under the RTI Act, he came to know that he was declared pass but could not secure his name in merit list due to limited vacancy as he was considered under Priority-III instead of Priority-II for

which he was issued progress card on 02.01.2017.

4. Respondents, in their return have not disputed the factual aspect of the matter. However, their stand is that since the petitioner failed to provide the original Pension Payment Order(for brevity, PPO) and also the disability certificate of his father, as required to be submitted on or before 27.01.2017 which was/ is *sine quo non* for consideration of his case under Priority-II. He was, therefore, rightly shifted to Priority-III. Due to change of Priority-II to III, he could not secure the requisite marks to enable him to come into the zone of consideration under Priority-III. Change of priority is due to non-production of original PPO and disability certificate by the petitioner.

5. I have heard learned counsel for the parties and have gone through the paper-book carefully.

6. Vide order dated 10.07.2018 this Court had asked the respondents to seek instructions, whether the refusal of appointment to the petitioner was on the ground of non-production of PPO or due to some other shortcomings. Despite granting ample opportunities, the requisite information has not been furnished by the respondents.

7. It is the conceded position that original PPO was/ is in custody of the bank from where the father of the petitioner draws pension. An authentic copy thereof has been provided by the EME Unit, where the father of the petitioner was posted and retired from. The direction to the petitioner to produce original PPO at the first place was not proper and correct. No other ground was raised in the written statement by the respondents to negate the claim of petitioner.

8. In view of the above, I am in agreement with petitioner that his case is required to be considered under Priority-II, disregarding the objection taken by the respondents.

9. In view of the above, the instant writ petition is allowed. The

respondents are directed to re-consider the case of the petitioner under Priority-II and to proceed in the matter, as per Rules.

9. Let the needful be done within a period of one month from today. No order as to costs.

(ARUN MONGA)
JUDGE

May 06, 2019
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| 1. | Whether speaking/ reasoned: | Yes/ No |
| 2. | Whether reportable: | Yes/ No |