

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

**CWP No. 17449 of 2017
Date of Decision: 16.01.2019**

Jaideep

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. S.S. Kharb, Advocate for the petitioner.

Mr. Harish Rathee, Senior DAG Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. The petitioner competed for the post of Police Constable in BCA Category in a recruitment drive to fill several vacancies advertised by public advertisement No. 8/2015. The petitioner possessed the NCC certificate issued to him on 18.06.2010. In the criteria adopted possession of NCC 'C' certificate invited 3 marks in the aggregate. However, while applying online, the petitioner made a mistake; in the column where it was asked whether candidate possessed NCC certificate, he responded with 'No'. He says that this was an inadvertent mistake committed by him. On 07.12.2016, he made a representation to the Haryana Staff Selection Commission that his online form may be corrected and he may be permitted to rely on his NCC 'C' certificate. The interviews were held on 16.06.2017 and the verification/scrutiny of the documents was done on the same date. The result was declared on

16.06/07.2017. (check date)

2. It has been explained by the Commission in its reply that respondent No.5 in General Category had also inadvertently mentioned 'No' against the column asking him whether he passed the NCC certificate. He also made a representation to the Commission which was accepted and was granted 2 marks for NCC 'B' certificate. To claim NCC 'B' grade certificate candidate requires 2 years of NCC course while NCC 'C' requires undergoing a 3 years NCC course. It has been further stated in paragraph No.7 of the reply that the Commission by resolution dated 20.06.2017, unanimously resolved to consider the claims of all such candidates who have not claimed/produced the evidence of educational qualifications, NCC certificates etc. but are claiming/producing documents relating to educational qualifications, NCC certificates etc. at the time of scrutiny of documents/interview/viva voce will be considered with immediate effect. Respondent No.5 produced his NCC 'B' certificate at the time of interview therefore, he was awarded two marks for NCC 'B' certificate.

3. For all practical purposes, there is no difference in the cases of the petitioner and respondent No.5 as both had initially said “no” to the NCC column, which required them to inform whether they possessed NCC certificate.

4. Learned counsel for the petitioner points out to Annex. R2/1 at page No.59 of the paper-book in which the petitioner's name falls at

serial No.45 and it has been written in the attendance sheet (page 59) under the column “NCC Cert. A/B/C” in long hand that “NCC cert. attached but not claimed”. It is not disputed that the petitioner possessed the NCC 'C' certificate and had produced it on the date of interview i.e. 16.06.2017 and had earlier sent the document through his representation dated 07.12.2016. The Commission was conscious of this as it has not disputed the receipt of representation and its annexures. In view of this position, the petitioner's case could not have been declined when he otherwise makes it on merits and his claim is identical to the 5th respondent. The last candidate selected secured 58.22 marks and after adding three marks to the score of the petitioner he would secure 60.15 marks, which is higher than the last candidate selected and appointed in the category of BCA.

5. In view of this, the petition is allowed and a writ of mandamus is issued to the respondents to add 3 marks to the score of the petitioner and declare his result. Accordingly, the name of the petitioner be sent to the State Government, if otherwise eligible, for offering appointment and to allot him constabulary number with all consequential benefits except monetary which will run from the date of appointment.

6. The fact that the 4th respondent has been selected and appointed then in the considered view of the Court it would be highly inequitable, unfair and harsh to contemplate making an order which

might lead to his displacement to make way for the petitioner for no fault of his. Thus, the appointment of the 4th respondent shall not be disturbed and the petitioner will be adjusted against any available vacancy and if there is none presently, by creating a supernumerary post to serve the ends of justice. Merit must prevail.

7. The petition is allowed with the above directions.

(RAJIV NARAIN RAINA)
JUDGE

16.01.2019
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Whether speaking/reasoned : *Yes*
Whether reportable : *No*