

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

**CWP-5265-2020
Decided on : 24.08.2020**

Aruna Kumari

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Sunil Kumar Nehra, Advocate
for the petitioner(s).

Mr. Pawan Kumar Longia, DAG, Haryana.

MANJARI NEHRU KAUL, J. (Oral)

Due to the outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

Petitioner has approached this Court under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ of *Mandamus*, for directing the respondents to recommend the name of the petitioner for promotion as Head Constable to list B-1 against 10% bravery quota from the date on which the similarly situated officials were recommended/promoted, along with all other consequential service benefits arising therefrom.

2. The petitioner while posted on general duty in Metro Police at Police Station Sector 29, Gurugram, was part of a police raiding party, which had apprehended a dreaded and wanted criminal on 09th October, 2013, in an encounter. She along with other police officials were thereafter given an appreciation letter of 1st Class for her role in apprehending the said criminal. However, later on she learnt that some members of the raiding party had been promoted to list B-1 against 10% bravery quota on the recommendation of respondent No.4 – DCP, Gurugram for their role in the said encounter. Thereafter,

the petitioner is stated to have approached the authorities concerned for

considering her case for promotion on the same grounds, but it failed to evoke any response from them. The grievance of the petitioner is that she has been singled out and discriminated against on account of her gender, even through her role and participation in the encounter that led to the apprehension of the wanted and dreaded criminal was at par with the other officials, who had since been promoted.

3. On being put to notice, the respondent State filed its written statement. Besides submitting that the petitioner could not claim her promotion as a matter of right, they denied having been approached or having received any representation from the petitioner for considering her case for promotion on the basis of her role in the aforementioned encounter. Learned State counsel thus argued that the instant writ petition seeking issuance of a writ of *Mandamus* was not maintainable, since no representation had been made by the petitioner to the authorities concerned.

4. I have heard learned counsel for the parties and gone through the written statement and replication filed by them.

5. In the instant case, admittedly, the petitioner did not give any representation to the authorities concerned and straightaway approached this Court by way of a CWP for issuance of a writ of *Mandamus* for seeking parity with the other officials, who had been promoted to list B-1 against 10% bravery quota. The conditions precedent for invoking the writ jurisdiction under Articles 226/227 of the Constitution of India, would be available to a person only if a demand in the form of a representation has been made by him/her and thereafter the said demand has been refused by the authorities concerned.

6. No doubt, it has been pleaded that the petitioner did approach the authorities concerned, but nothing has been placed on record in support of the aforementioned conditions.

7. In the circumstances, the instant writ petition is not maintainable. However, the petitioner is at liberty to make an appropriate representation to the authorities concerned. As and when such a representation is made by the petitioner, the respondents are directed to consider and examine it and thereafter, pass an appropriate speaking order at the earliest but not later than two months from the date of such representation.

8. Dismissed.

(MANJARI NEHRU KAUL)
JUDGE

August 24, 2020

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No