

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

**CWP-6682-2017 (O&M)
Date of Decision:06.02.2020**

Ravinder Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. GPS Bal, Advocate for the petitioner.

Mr. TPS Chawla, DAG, Punjab.

....

TEJINDER SINGH DHINDSA, J. (ORAL)

Petitioner subjected himself to a process of recruitment for appointment as a male Constable under the general category in pursuance to Advertisement No.1/2016 dated 31.05.2016 issued by the Director General of Police, Punjab. In terms of selection criteria disclosed in the advertisement, petitioner has secured 28 marks in the final merit. Apparently, other candidates belonging to the general category and who have also secured 28 marks as per final merit have been appointed. Petitioner has been denied appointment.

Resultantly, the instant writ petition.

Mr. GPS Bal, learned counsel for the petitioner would vehemently contend that under the advertisement in response to which the petitioner had applied, there was no stipulation to address such eventuality wherein two candidates belonging to the same category are bracketed in merit. It is his contention that an amended Standing Order had been issued

by the Director General of Police subsequent in point of time laying down that if two candidates secured identical merit and belong to the same category, the senior in age would be accorded preference. The precise argument raised is that the amended Standing Order cannot be given retrospective effect. No other argument was raised.

Having heard counsel for the parties, this Court is of the considered view that there is no merit in the instant petition.

Even though a complete copy of the Advertisement No.1/2016 dated 31.05.2016 was not appended along with the writ petition, yet during the course of hearing, learned State counsel has made available for perusal of this Court, a complete copy of such advertisement. A copy thereof was even handed over to Mr. Bal in Court and who after reading the same concedes that it was the same advertisement in response to which the petitioner had applied for appointment to the post in question.

Clause 20 of the advertisement laid down the General Instructions to the candidates. Sub Clause vii of Clause 20 of the advertisement dated 31.05.2016 would be relevant to the issue at hand and read as follows:

“Clause 20. GENERAL INSTRUCTIONS TO THE CANDIDATES:

“vii. Candidates are advised to go through the guidelines/instructions for filling up the Application Form online as well as the **Standing Order** (SO) of the office of Director General of Police vide No.1 of 2016, which is the governing document for the Recruitment process (2016) of Constables in Punjab Police. The **Standing Order** containing detailed criteria/eligibility conditions, etc., is available on the recruitment website (www.punjabpolicerecruitment.in)”.

Mr. Chawla, learned State counsel has also produced in Court

the Standing Order No.1/2016. Perusal of the same would reveal that under Clause 6 of such standing order pertaining to Selection List, it has been clearly stipulated as follows:

“While preparing the combined final merit list, in the event of two candidates securing equal marks, the following tie resolution criteria shall be adopted;

(a) In the event of candidates having equal marks, the candidate senior in age shall be put higher in the merit.

(b) xxx xxx xxx

(c) xxx xxx xxx”

It is the categoric assertion made by learned State counsel that the afore noticed stipulation was part and parcel of the original Standing Order No.1/2016 as mentioned in the Advertisement dated 31.05.2016 and was not incorporated by virtue of any amendment. Such assertion has not met with any rebuttal by counsel for the petitioner.

At this stage, learned State counsel has further clarified that the amendment in the Standing Order No.1/2016 made on 26.09.2016 was for the process of interview-cum-personality test to be treated as a document verification/counselling exercise and as such has no relevance to the issue at hand.

The date of birth of the petitioner herein is 22.03.1993. The other candidates who were bracketed in merit and have secured equal marks i.e. 28 marks are concededly elder to the petitioner.

It is by now well settled that if a candidate participates in a process of selection wherein the eligibility criteria as also criteria of selection stands disclosed before hand, the selection process has to be carried out and determined strictly as per terms and conditions contained in

the advertisement. It would not be open for any such candidate to take a chance as per the terms and conditions contained in the advertisement and having remained unsuccessful to turn around and to assert that the eligibility criteria was arbitrary and wrongly framed. A reference in this regard may be made to the decisions of the Hon'ble Supreme Court of India in **Madan Lal & others Vs. State of Jammu & Kashmir, AIR 1995 SC 1088** and **G.N. Nayak Vs. Goa University, 2002 (1) SCT 1052**.

In the facts and circumstances of the present case, the petitioner as also certain other candidates belonging to the general category having secured identical marks i.e. 28 marks, the issue has been resolved in terms of the Standing Order No.1/2016 issued by the Director General of Police which was a part and parcel of the Advertisement dated 31.05.2016.

No infirmity is found in the action of the respondent/authorities in having treated other candidates of the general category securing identical marks as higher in merit on account of being senior in age.

No merit.

Dismissed.

06.02.2020

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |