HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

104 **CWP No.2571 of 2021**
Decided on : 19.02.2021

Dharmender ... Petitioner

Versus

State of Haryana and another ... Respondents

CORAM : HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. J.P. Jangu, Advocate
for the petitioner.

(The proceedings are being conducted through video conferencing, as per instructions.)

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G.S. Sandhawalia, J. (Oral)

The present writ petition has been filed under Article 226/227 of the Constitution of India seeking direction for revision of result of the post of Male Constable (General Duty) which has been declared on 28.02.2019 (Annexure P-5) and the waiting list published on 02.04.2019 (Annexure P-6).

It is the case of the petitioner that he had applied for the post of Male Constable (GD) in BC B category against 400 posts advertised out of the 5000 posts. The claim is made on the ground that the petitioner is entitled for the benefit of 5 marks on account of the fact that his father had died before attaining the age of 42 years and at the time of death the petitioner was 14 years and 4 months old. Reference is made to the advertisement No.3 of 2018 (Annexure P-1) and the relevant clause

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whereby weightage was to be given. The same reads as under:-

> **Miscellaneous (10% weightage):-**
>
> (a) (i). Five (05) marks will be given if no person from amongst the applicant's father, mother, spouse, brother, sister, son and daughter is/was/has been a regular employee in any Department, Board, Corporation, Company, Statutory Body, Commission or Authority of Haryana Government or any other State Government or Government of India.
>
> (ii) Five (05) marks will be, in case of Orphan/Widow:-
>
> (i) If the applicant is a widow; or
>
> (ii) If the applicant is a 1st or 2nd ward of the deceased whose father died before completion of 42 years of age.
>
> (iii) If the applicant is a 1st or 2nd ward and his/her father had died before his/her completing 15 years of age."

It is thus the case of the petitioner that as per result in the written examination petitioner had secured 52.2 marks (Annexure P-7) and has been granted 5 marks for no other person from his family being in service as per Clause a(i). However, he has not been given the additional 5 marks on account of a (ii) (ii) and a (ii) (iii). Counsel has pointed out from the application form of the petitioner that his date of birth is 25.11.1998 and as per above clauses he had claimed both the benefits including of being a orphan and his father having died before attaining the age of 42 years. In support of the said claim, he has also appended the death certificate of his father showing that date of death is 06.12.2012 (Annexure P-4).

Further reference has now been made in the writ petition to the result which had been declared on 28.02.2019 (Annexure P-5) wherein the last candidate for the BC B category for the post of Constable

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secured 56.20 marks and the waiting list result declared on 02.04.2019 (Annexure P-6) would go on to show that the merit has further come down to 56 marks in the said category. Thus, it is submitted that if benefit of 5 marks is given to the petitioner, he would get 61 marks which is more than the waiting list candidate and is entitled for the benefit. Representations regarding this aspect have also been made to the Commission on 03.05.2019 (Annexure P-10 and P-11).

Notice of motion.

Mr. R.K.S. Brar, Additional AG, Haryana accepts notice on behalf of the State.

In view of the above circumstances, this Court is of the opinion that no useful purpose as such would be served by calling upon the respondents to file the reply as decision making process is still incomplete.

Resultantly, the present writ petition is disposed of with direction to the respondents to consider the case of the petitioner in view of the above discussion. In case, the petitioner is entitled for the benefits the same be given to him and his case be processed accordingly. If he is not entitled for additional 5 marks, a detailed order be passed and communicated to the petitioner within a period of 2 months from the date of receipt of the certified copy of this order.

(G.S. SANDHAWALIA)
JUDGE

19.02.2021
Parveen

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

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