

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**C.M. No. 7136-2021 &
CWP-6935-2021 (O&M)**

Date of decision: 22.07.2021

SHUBHAM BHARDWAJ

...PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

....RESPONDENTS

(PROCEEDINGS THROUGH V.C.)

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASHI

Present: Mr. P.S.Khurana, Advocate,
for the petitioner.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab,
for the State.

AUGUSTINE GEORGE MASHI, J.

C.M. No. 7136-2021

Application is allowed subject to just exceptions. Annexures
P-9 to P-12 are taken on record.

CWP-6935-2021 (O&M)

This writ petition has been preferred by a candidate who had applied against an Advertisement No. 8 dated 05.06.2020 issued by the Punjab Public Service Commission, Patiala-respondent No. 3 inviting applications for filling up vacancies of various posts. Apart from different posts, which were mentioned, for which a Combined Competitive Exam was

to be held, the number of posts was also specified for each post, so advertised, as also the posts for the different categories.

2. Another Advertisement No. 14 was issued by respondent No. 3 wherein it was mentioned that the candidates, who had applied in pursuance to Advertisement No.8 dated 05.06.2020, need not apply afresh. Petitioner, since had applied for in pursuance to Advertisement No. 8, did not file a fresh application. His candidature was found to be in order and, therefore, he had received Roll No. 28577 for appearing in the Preliminary Examination which was to be held on 13.02.2021. Petitioner participated in the said examination, result whereof was declared by the Punjab Public Service Commission on 12.03.2021 with the cut off marks for each category. The Mains Examination was scheduled for 01.04.2021 but the name of the petitioner did not figure in the successful candidates although the petitioner had secured 237 marks. Petitioner received information that in pursuance to the Preliminary Examination, the candidates 13 times of the total vacancies advertised were declared eligible for appearing in the main examination.

3. The grievance of the petitioner is that the result of the Preliminary Examination, which has been declared, was required to be declared in two distinct sets of posts. In this regard, he has categorized the posts of Deputy Superintendent of Police and Deputy Superintendent Jails/District Probation Officer (Grade-II) as one set and the other posts i.e. Punjab Civil Services (Executive Branch), Tehsildar, Food Supply and Consumer Affairs Officer, Block Development and Panchayat Officer, Assistant Registrar Co-operative Societies, Labour and Conciliation Officer, Employment Generation and Training Officer as second set. For this

assertion, the plea, which has been taken, is that the maximum age limit is 28 years for set No. 1 whereas, for set No. 2, as mentioned above, the maximum age limit is 37 years as on 01.01.2020. His assertion is that there is a possibility that against the total 36 posts of various categories of Deputy Superintendent of Police and Deputy Superintendent Jails/District Probation Officer (Grade-II), the number of candidates declared eligible for appearing in the Mains Examination may or may not be 13 times the advertised posts of this category. The competition, thus, in this category if it is less than 13 times the total vacancies i.e. 36, would be lesser. His primary contention is that in case the number of candidates being less for these posts, who have qualified for the Mains Examination, the merit in the Preliminary Examination should have gone lower in merit to fulfill the said shortfall in the number of candidates so that the mandate of the Statute is fulfilled which requires calling of candidates for the Mains Examination to the extent of 13 times the total vacancies. On this basis, challenge has been posed by the petitioner to the fixing of 13 times the total number of vacancies as the candidates to be called for participating in the written main examination for all.

4. Upon notice having been issued to the respondents, reply by way of a short affidavit of the Secretary (Examinations) Punjab Public Service Commission, Patiala dated 26.03.2021 has been filed. It has been submitted that 75 posts of various departments, in pursuance to the advertisements which were issued by the Punjab Public Service Commission, are to be filled through Punjab State Civil Services Combined Competitive Examination. It is the Combined Competitive Examination for

all branches of Punjab Civil Services. For the Preliminary Examination, candidates do not apply for any particular service. It is a common exam which is held as per the Punjab State Civil Services (Appointment by Combined Competitive Examination) Rules, 2009 as amended up to 03.01.2014. According to these Rules, candidates equal to 13 times of the vacancies advertised in each category i.e. General, Scheduled Caste, Backward Class etc. are shortlisted from amongst those appearing in the Preliminary Examination for the Mains Examination. Merit is determined in each specific category and the top 13 candidates in the said merit list, as per their specific category, are shortlisted for the Mains Examination. The marks of the last candidate for a specific category is the cut off marks for that category. There is no separate cut off or minimum marks for any category. The candidates, who secure equal and or more than the cut off marks, are declared eligible to appear in the Mains Examination. It has further been emphasized that in the form, which is filled for the Preliminary Examination, the candidates do not specify the service or the posts for which they are applying and it is only at the stage of filling the on-line application form for the Main Competitive Examination that the candidates fill the order of preference for service/post in the application form. It has further been submitted that the shortlisting of candidates for the Mains Examination is also category-wise i.e. General, Scheduled Caste, Backward Class etc. and not Department-wise.

5. It has been emphasized that the Preliminary Examination is only a screening test as the marks obtained in this test are not counted towards the final merit of the candidates. The competitive examination for

the Punjab State Civil Services Combined Competitive Examination consists of Mains Examination and the Interview for which marks are assigned which are added. The total number of marks, which are obtained by a candidate, decide the final merit of the candidates. After the declaration of the final result, allocation of department/service is done by the Department of Personnel (State of Punjab) through counselling as per the Notification dated 17.09.2019. It has been said that the shortlisting for Mains and Interview is done category-wise and not department-wise as within the posts for a particular department, category-wise reservation is provided.

6. Another affidavit dated 30.03.2021, in pursuance to the directions issued by this Court dated 26.03.2021, has been filed, wherein the procedure to decide the cut off for any category particularly for General Category, to which the petitioner belongs, has been detailed. As per the advertisement, total seats for the General Category are 22, out of which, six seats are reserved for General Category (Female). Firstly, candidates 13 times the number of General Category candidates are taken i.e. $22 \times 13 = 286$. Thereafter, out of these 286 candidates, total number of females are checked. In the present selection, the same comes to 46 in number. Since the required female candidates, as per the reservation, would be $13 \times 6 = 78$. To complete the shortfall of 32 candidates, the merit for the females is reduced. In that process, the corresponding number of males, who are lowest in the merit list from amongst the first 286 candidates, are deleted. The cut off marks for General (female) in this process comes out to 237.5 marks being the last candidate in this category. The marks of the last male selected candidate for shortlisting for the Mains Examination being 244.5 marks, the same becomes

cut off for the General Category.

Similar process is followed for each category of reservation both vertical and horizontal. It may be specified here that the petitioner has secured 237 marks in the General Category which is lower than even the cut off marks for the General (female) Category, which was 237.5, what to talk of General (Male) Category, for which it was 244.5 marks. Since the issue raised by the petitioner was apparently not responded to on the factual aspect at that relevant time, an interim order was passed by this Court dated 01.4.2021 permitting the petitioner to provisionally participate in the Mains Examination. The result was, however, ordered to be kept in a sealed cover.

7. An affidavit dated 03.06.2021 of the Secretary (Examinations), Punjab Public Service Commission, Patiala, along with the sealed cover containing the result of the petitioner has been filed in Court, wherein it has been stated that the detail of marks obtained by the petitioner has been kept in the said sealed cover. However, the petitioner has obtained marks in the Mains Examination which are less than the cut off marks of three time the candidates who have qualified for the interview in General Category. Similar is the affidavit dated 11.06.2021.

8. At the time of arguments on 18.06.2021, counsel for the State has given the details with regard to the candidates who were called for interview in the General Category, which came to 178, out of which, 139 candidates (82 male and 57 female candidates) were called for the physical test which was held on 16.06.2021. Out of these 178 candidates, 30 candidates did not give preference for the post of DSP and 9 were rejected for being overage. In General Category for 22 seats, 66 qualified for the

interviews and 48 (29 male and 19 female candidates) for the physical test, out of which, 11 male and 2 female candidates qualified/cleared the physical test. So against the 7 general posts of DSP for males, 11 male qualified candidates were available and against 3 posts of DSP Women, 2 qualified candidates were available.

On the basis of this factual position, counsel for the respondents has submitted that the contention of the petitioner cannot be accepted. It has further been asserted by her that the rules governing the selection process have been fully complied with and there has been no violation thereof. It has further been asserted that there is no challenge to the statutory Rules or instructions as well as the advertisement and, therefore, the petitioner cannot make a grudge in this regard.

9. I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the pleadings as well as the factual aspect of the case.

10. This Court has to first determine as to whether the initial shortlisting process in the Preliminary Examination, which was held in pursuance to the advertisement issued by the Punjab Public Service Commission, is in accordance with this advertisement and the Statutory Rules or not, which, in the considered opinion of this Court, cannot be faulted with.

11. It is apparent that the Preliminary Examination is only a process of shortlisting of the candidates as it is a screening test and the marks obtained therein are not counted towards the final merit of the candidates.

This is apparent from the fact that when the form is filled for the Preliminary

Examination, the candidate is not required to fill in either the preference for service or the post for which the applicant has applied, which stage only comes after the shortlisting of the candidates has been carried out and the application forms are to be filled in for the main competitive examination.

12. It would not be out of way to mention here that the shortlisting of the candidates, even in the Preliminary Examination, is category-wise i.e. General, Scheduled Caste, Backward Class etc. as the vacancies are advertised category-wise. Candidates equal to 13 times the number of vacancies are shortlisted from amongst the candidates who appear in the Preliminary Examination for shortlisting in the main examination.

13. The assertion of the petitioner trying to put the total number of posts into two different sets i.e. one for DSP and DSP (Jails) whereas the other posts i.e. Punjab Civil Services (Executive Branch), Tehsildar etc. appears to be devoid of any merit. It is not supported by any Statutory Rules. This distinction, which was being sought to be drawn by the petitioner, is primarily based upon the fact that the upper age limit for set No. 1 i.e. DSPs' is 28 years whereas, for set No. 2, it is 37 years apart from the factum that for the post of DSP/DSP (Jails) etc., there is a physical examination prior to the interview.

14. The case of the petitioner is based upon conjectures and surmises as on facts also, it has been found that there has been sufficient candidates at the stage of shortlisting for the Mains Examination as also for physical test and interview in the category, for which the petitioner has applied i.e. General (Male).

were 22 seats for General Category, out of which, six seats were reserved for female. The candidates, therefore, to be considered for shortlisting in the General Category, were 286. Keeping in view the fact that there were six posts reserved for the General (female) Category, out of these 286 candidates, at least 78 candidates were required to be female. As a matter of fact, only 46 figured in the merit list out of the initial 286 candidates shortlisted. To bring the number of General (female) candidates to 78, 32 candidates, according to the merit list, had to be included and similarly, 32 candidates lowest in the merit list of 286 candidates, who were male, had to be deleted. After making this adjustment, the last male candidate, who was selected, got 244.5 marks and the last general female candidate obtained 237.5 marks, which became the cut off marks for these two categories. The marks obtained by the petitioner, as per the admitted fact, are 237 in the Preliminary Examination, meaning thereby that the petitioner could not make it to the list of selected candidates for the Mains Examination. There is no challenge to any statutory rule or advertisement. As is apparent from the details, as given in the advertisement, the Statutory Rules governing the selection process and the procedure followed by the Punjab Public Service Commission, there has been no deviation or violation thereof. Thus, this writ petition deserves to be dismissed on this ground itself.

16. However, as regards the Mains Examination is concerned, again according to the affidavit, which has been filed by the Secretary (Examinations), Punjab Public Service Commission, Patiala, although the details of the marks obtained by the petitioner have been kept in a sealed cover, however, it has been disclosed that the marks obtained by the

petitioner in the Mains Examination are less than the cut off three time the candidates who had qualified for the interview in the General Category.

The break-up specifically with regard to the posts of DSP in the General Category has been answered by the counsel for the State by filing written submissions by way of affidavit of the Secretary (Examinations), Punjab Public Service Commission dated 21.06.2021 that a total of 178 candidates qualified for the interview as a whole, out of which, 30 candidates had not opted for appointment to the post of DSP and candidature of 9 candidates was rejected being overage, therefore, 139 candidates (82 male and 57 female candidates) were called for the physical test, which was held on 16.06.2021. Since there were 22 seats in the General Category, 66 candidates i.e. three times the number of posts qualified for interview and 48 (29 male and 19 female) candidates for physical test , out of which, 11 male and 2 female candidates qualified/cleared the physical test.

17. It is apparent from the result that there were sufficient number of qualified candidates available for appointment to the post which has been questioned by the petitioner. Against 7 General Category (Male) posts of DSP, 11 male qualified candidates were available and against 3 posts of DSP Women, 2 qualified candidates were available. Since the present writ petition pertains to the category of DSP (Male), against which the petitioner had applied, no grievance can be raised by the petitioner as finally, 11 candidates were available against 7 General Category (Male) posts of DSP.

It would not be out of way to mention here that the interviews were conducted from 31.05.2021 to 18.06.2021 and the final result was

declared category-wise and combined merit-wise on 18.06.2021.

18. In the light of the above, there being no merit in the present writ petition, the same stands dismissed firstly, on the ground that the petitioner has failed to qualify the Preliminary Examination and therefore, was not eligible to take part in the Mains Examination and secondly, there were more meritorious candidates eligible and available to fill up the posts of DSP advertised to which category the petitioner belonged and had applied for.

July 22, 2021

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No