

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15569-2021 (O&M)

Date of Decision: 06.09.2021

Sukhdarshan Singh & Ors.

... Petitioners

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. GS Bal, Sr.Advocate with
Mr. Sewa Singh, Advocate for the petitioners

Ms. Monica Chhibber Sharma, Sr.DAG, Punjab

GIRISH AGNIHOTRI, J. (Oral)

(1) The matter has been taken up through video conferencing on account of restrictions due to outbreak of COVID-19 pandemic.

(2) Petitioner Sukhdarshan Singh and 45 others have filed the present writ petition, *inter alia*, with a prayer to quash the select list of Basic Proficiency Test 2021 for deputing Constables/Senior Constables to lower school course in District Police Cadre as far as it excludes the petitioners amongst others by virtue of framing of wrong merit list dated 13.07.2021 (P5). A further direction is prayed for to direct the respondents to depute the senior Constables/Constables as per the previous merit list issued on 08.07.2021 (P4) which includes the petitioners to undergo lower school course commencing in August, 2021.

(3) Record shows that this Court on 20.08.2021 had issued notice of motion. In response thereto, the reply on behalf of respondents has been filed by Sh. Sudhanshu Shekhar Srivastava, IPS, Additional Director General of Police, Punjab.

(4) For the facts and reasons to be recorded hereinunder, this Court does not find any merit in the writ petition and is inclined to dismiss the same.

(5) As per learned senior counsel for the petitioners, there were total 2171 seats which were allocated to the District Police Wing of the Department for undergoing lower school course. The Lower School Course is an eligibility Course to become eligible for promotion to the post of Head Constables. It is then contended that 25% seats are reserved for such candidates who become eligible to undergo the lower school course.

(6) Applying 25% to 2171, a total of 543 seats are thus reserved for such candidates who belong to B-I quota. The petitioners herein also belong to the said quota.

(7) Learned senior counsel by making reference para 8 of the memo dated 10.11.2017 (P8) issued by the Director General of Police, Punjab submits that the Governor of Punjab had taken a decision and had ordered that *“reservation shall be made in favour of the members of Scheduled Castes and Backward Classes in the promotion ‘Courses’ (emphasis attached) of the Home (Police) Deptt...”* It is further mentioned that percentage of reservation is the same as in the case of corresponding promotional post.

(8) Learned senior counsel further submits that while applying the instructions/memo (P8), the Department has committed an irregularity. He submits that initially the lower school select list (P4) was issued on 08.07.2021. In this list, the name of the petitioners figured amongst 109 persons belonging to the reserved category. At this stage, it is relevant to mention that as per learned counsel for the petitioners, out of 543 posts meant

for B-I test category, 20% seats in view of memo (P8) had to be reserved for reserved categories which comes to 109 seats.

(9) The grievance raised is that the petitioners have been taken out of the list through the subsequent select list prepared on 13.07.2021 (P5). To elaborate, counsel submits that 46 petitioners and in total 49 persons have been taken out of the list of candidates to undergo lower school course. It is averred that this has been done by treating such of those reserved category candidates who were approximately 49 in number who although belonged to the reserved category but were considered in the general category on the basis of their marks, as reserved category persons.

(10) Learned State counsel, however, submits that the intention behind issuing the memo (P8) apparently was to ensure that there are sufficient number of candidates (in the present case 109) belonging to the reserved category are sent to the promotion course – the lower school course so that when promotions against the vacancies for Head Constables are to be made, at least 109 candidates belonging to the Scheduled Caste should be available to be considered against the equal percentage of reservation to be applied on the promotional post.

(11) In other words, learned State counsel submits that out of a total of 2171 vacancies of Head Constables available with the District Police for which requisition was sent for allocation of seats in the lower school course, 543 seats were meant to be filled up from such candidates who passed the B-I test. On this, if 20% reservation comes to 109 seats in the list issued (P5), 109 candidates have been deputed for lower school course purely on the basis of merit. The petitioners herein are lower in merit as compared to other reserved category candidates. It is also submitted that in case the argument of

the petitioners is accepted then as against 109 vacancies/seats, 166 persons from the reserved category would be deputed to undergo the course. Resultantly, 57 candidates from the general category would be deprived from passing the course. It is also submitted that on the same analogy, in case 2171 vacancies are to be filled up for promotion, a situation would come that 57 general category candidates would be lesser in number. In other words, 57 general category candidates would be deprived of acquiring the eligibility by passing the promotional course, and resultantly 57 vacancies of Head Constables would remain vacant.

(12) This Court accepts the stand taken by the respondents although in the written statement apart from the facts and grounds noticed above, additional submissions have also been made. Reference has been made to the Circulars (R1 to R5), however, this Court, in view of the facts and grounds noticed above does not find any merit in the writ petition. The list (P5) is accordingly approved as, in the considered view of this Court, this would ensure equal representation by all the categories and make commensurate number of persons from each category available for promotion to commensurate/proportionate with the available number of vacancies available for promotion as Head Constables.

(13) The writ petition is accordingly dismissed.

06.09.2021

Vvishal

(Girish Agnihotri)
Judge

1. *Whether speaking/reasoned?*

Yes/No

2. *Whether reportable?*

Yes/No