

118.

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

CWP-5167-2022

Date of Decision: 15.03.2022

(Heard through VC)

NAVITA RANI

.... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Jainainder Saini, Advocate,
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

JAISHREE THAKUR.J (Oral)

1. The petitioner, who has participated in the selection process for appointment to the post of Sub Inspector (Female) of Group C of the Haryana Police, pursuant to advertisement No.3 of 2021, category No.02, seeks additional 5 marks to be given as per clause 2.3 Criteria for selection (Annexure P-1).

2. In brief, the facts are that respondent No.2 issued an advertisement No.3 of 2021, dated 15.06.2021 inviting applications for filling up 65 posts of Sub Inspector (Female). The selection process was mentioned in the said advertisement and as per clause 2.3 Criteria for selection, additional marks were to be given in case the applicant is a widow; first or the second child and father had died before attaining the age of 42 years; applicant is the first or the

second child and father had died before the applicant had attained the age of 15 years.

3. The petitioner, who belongs to a BCA category, applied under the said category and also applied for grant of 5 additional weightage marks as per clause 2.3, being a fatherless child. The petitioner was then issued an admit card and allotted the roll number 3212028557. After having appeared for the examination, the result was declared and the petitioner was then called for the physical screening test which was to be held on 11.10.2021 to 13.10.2021. The petitioner cleared the physical measurement test and thereafter, scrutiny of documents was conducted. The petitioner stood second in the BCA category in the final result with the cut off marks being 64.20. As per the result, the petitioner had secured 68.20 marks (63.20 marks for the written examination and 5 marks under clause 2.3 being a fatherless child under the socio-economic criteria). However, on the revised result prepared and published, the marks of the petitioner were reduced and she has now been kept in the waiting list in the BCA category.

4. Learned counsel appearing on behalf of the petitioner herein would submit, that 5 marks that were allocated to the petitioner under clause 2.3 have wrongfully been withdrawn and that she is entitled to the same. It is contended that though she is a third child, none of the siblings i.e. first child or the second child of her parents have availed of any socio-economic benefit, which benefit should be allowed to her in this selection. It is submitted that the eldest sister of the petitioner is a mentally challenged child and had studied upto 5th class and her second sister being married has never applied for any government job. The petitioner was 13 years old when her father had died at the age of 39 years and

therefore, deduction of 5 marks, which was initially granted to the petitioner on account of being a fatherless child, is unsustainable.

5. I have heard learned counsel for the petitioner and find no merit in the instant petition. The facts in the present case are not in dispute. It is an admitted fact that pursuant to the advertisement No.3 of 2021, dated 15.06.2021, the petitioner herein applied for recruitment to the post of Sub Inspector (Female) in BCA category as unmarried woman and undertook written examination. Having cleared the same, she also qualified the physical test and was eventually awarded 68.20 marks, which on revision was reduced to 63.20 marks. The reduction of 5 marks which were allocated to her on the basis of being a fatherless child under clause 2.3, is under challenge.

6. Clause 2.3 which is a criteria for selection, examination and syllabus specifies that 80 marks will be allocated for knowledge test and physical screening test. Additional 10 marks would be given for education and NCC, whereas additional 10 marks would be given under the category as enumerated below:-

“Miscellaneous (10% weightage):- (10Marks)

(a) (i) Five (05) marks shall be given if neither the applicant nor any person from among the applicant's father, mother, spouse, brother, and Son is, was or has been a regular employee in any Department/ Board/Corporation/ Company/Statutory Body/ Commission/ Authority of Government of Haryana or any other State Government or Government of India.

(ii) Five (05) marks shall be given, if the applicant is:-

(i) a widow; or

(ii) the first or the second child and his father had

died before attaining the age of 42 years: or

(iii) the first or the second child and his father had died before the applicant had attained the age of 15 years,”.

*(iii) **Five (05) marks** will be given, if the applicant belongs to such a denotified tribe (Vimukt Jatis and Tapriwas Jatis) or Nomadic tribe of Haryana which is neither a Scheduled Caste nor a Backward Class.*

*(iv) Maximum of **Eight (08) marks** have been kept for experience as an adhoc or contract employee. One-half (=0.5) mark for each year or part thereof exceeding six months of experience, out of a maximum of **16 years**, on the same or a higher post in any Department, Board, Corporation, Company, Statutory Body, Commission, Authority of Government of Haryana. No marks will be awarded for any period less than six months:*

Provided that no applicant will be given more than ten marks under any circumstances for (i) to (iv) above.

***(b)** Claim of reservation benefit and/or relaxation etc., if any, shall be admissible to those candidates only, who submit the requisite valid original certificate for scrutiny alongwith their application in support of their claim failing which, they will be considered under general category provided they are otherwise eligible. Information in this regard will be displayed on official website of the Haryana Staff Selection Commission.*

***Note** Claim under Socio-economic criteria, if any, shall be admissible to candidates of Haryana domicile only, and to those who would fill the details of the requisite certificate i.e. name of issuing authority, date of issue and reference no. etc and also upload the requisite valid original document along with their application in support of the*

claim failing which no certification benefits shall be considered after last date of filing online application.”

A reading of the said clause makes it abundantly clear that additional 5 marks would have been allowed to a fatherless child, if the applicant was either the first or the second child born to a person who had died before he had attained the age of 42 years or in case such father had died before the applicant had attained the age of 15 years. The fact that the applicant herein is a third child is not in dispute and, therefore, would not have been entitled to the grant of 5 additional marks. The argument raised that first or the second child, that means that the elder siblings of the petitioner, had not availed of the benefit, as one was mentally challenged and the other had got married, is not sustainable, in view of the specific conditions as laid down in the advertisement which does not mention that the third child can avail of the benefit in case the benefit of additional marks is not availed of by the first or the second sibling. Once the terms and conditions for grant of additional weightage were made abundantly clear in the advertisement itself and there is no ambiguity in the same, having participated in the selection process, the petitioner cannot turn around and now seek a benefit which is not admissible under the said advertisement.

7. The law in this regard is very clear wherein it has been held that a candidate is not entitled to challenge the criteria of process of selection having participated in the same. Reliance is placed on a judgment rendered in ***Manish Kumar Shahi Versus State of Bihar and others-(2010) 12 Supreme Court Cases 576***, wherein it has been held that the petitioner is not entitled to challenge the criteria or process of selection after having participated in it. The petitioner was well aware of the criteria in the advertisement inviting

applications for the post of Sub Inspectors by the Haryana Staff Selection Committee, and on what basis a person could claim 5 additional marks on account of her socio-economic status. Clause 2.3 of the Criteria for selection examination and syllabus of the advertisement (Annexure P-1) specifically mentions that 80 marks is towards knowledge test with additional weightage of 10 marks for additional qualification such as education, NCC etc. and 10 marks towards socio-economic status of the applicant. Only the first or the second fatherless child would be entitled to claim the benefit under the criteria of the advertisement, which cannot be allowed to the petitioner herein on account of her being the third child, even if the first two have not taken any benefit. The criteria cannot be interpreted as per the convenience of the petitioner.

8. The Commission has rightly rejected the candidature of the petitioner and this Court too does not find any ground for interference. The writ petition is dismissed accordingly.

(JAISHREE THAKUR)
JUDGE

15.03.2022

sanjeev

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