

112.

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

**CM-5153-CWP-2022 IN/AND
CWP-6171-2019**

Date of Decision: 07.04.2022

MANISH

.... Petitioner

Versus

STATE OF HARYANA AND ORS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rajesh Goyal, Advocate, for the petitioner.

Ms. Kirti Singh, DAG, Haryana.

JAISHREE THAKUR.J (Oral)

CM-5153-CWP-2022

This is an application that has been filed under Section 151 CPC for preponing the date of hearing of the main case which is listed for hearing on 20.07.2022.

For the reasons mentioned in the application, same is allowed and the main case is preponed and taken up for hearing today itself.

CWP-6171-2019

This is a writ petition that has been filed seeking an appropriate writ in the nature of mandamus directing the respondents to grant 4 marks to the petitioner for his graduation degree and offer him appointment as Male Constable under the BCB Category.

The petitioner herein had applied online for appointment to the post of Male Constable and thereafter participated in the selection process. After clearing the written test, the petitioner was called for fitness and other

tests as per the advertisement and was called for submission of documents on 11.02.2019. Since he was not having his graduation degree being pending with respondent No.2, he was asked to bring the same within a week. The petitioner got his provisional degree from the department on 15.02.2019 and submitted the same with the department on 16.02.2019 which was rejected by the department being fake and asked to bring original one. The department announced the result on 28.02.2019 but the petitioner did not find his name in the merit list.

Learned counsel for the petitioner would contend that similar matter came up for hearing in this Court in CWP No.3841 of 2019 titled as 'Rahul Kumar Vs. State of Haryana and another' decided on 21.02.2019 wherein following directions were given:-

“...in case the result of the petitioner has been announced before the cut off date i.e. 25.10.2018, the Commission shall give him marks of his graduation, as per criteria laid down in the advertisement dated 16.04.2018 for the post of Male Constable.”

Counsel for the petitioner would further contend that some posts of Constables must still have been lying vacant and, therefore, he would be eligible for appointment if 4 marks are awarded to him.

Notice of motion.

On the asking of Court, Ms. Kirti Singh, DAG, Haryana, who is present in the Court, accepts notice for the respondents No.1 & 2 and would submit that she has no instructions regarding any post lying vacant as on date. However, she is not in a position to dispute the judgment that has been

rendered by this Court in CWP No.3841 of 2019.

I have heard learned counsel for the parties and have perused the paper book and the judgment referred to above by the counsel appearing for the petitioner.

The petitioner herein had obtained 50.40 marks in the written examination and 5 marks under socio economic criteria, however, he was not awarded 4 marks for his graduation as the provisional degree produced by the petitioner was declared as fake by the department. The cut off marks under the BCB category was 56.20 and if the petitioner is awarded 4 marks, his total marks would come to 59.40.

Be that as it may, in view of the factual position herein, the instant writ petition is disposed of giving similar directions as this Court has already issued in CWP No.3841 of 2019. In case posts of Male Constable are still lying vacant, the Commission is directed to take into consideration the provisional degree of the petitioner and if found in order, allocate him necessary marks for his Graduation as per the criteria laid down in the advertisement dated 16.04.2018. Needless to say in case all documents are found in order and there is merit in the contention raised by the petitioner, appointment letter be issued to him. However, in case the petitioner is not found eligible and his case is to be rejected, let a speaking order be passed in that regard. Let this whole exercise be completed within a period of six weeks from the date of receipt of certified copy of this order.

07.04.2022

sanjeev

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No

(JAISHREE THAKUR)
JUDGE