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

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CWP-9637-2021

Date of decision : 25.08.2022

Vikram

... Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Jasbir Mor, Advocate for the petitioner.

Mr. Sharan Sethi, Addl. A.G., Haryana

Ms. Prerna Malhotra, Advocate for respondent No.2/HVPNL.

Anupinder Singh Grewal, J. (Oral)

The petitioner has sought a direction to the respondents to award him five marks under the socio-economic criteria and to consider his claim for appointment to the post of Lower Divisional Clerk advertised by the respondent/HSSC as per his merit.

Learned counsel for the petitioner submits that the petitioner had applied for the post of Lower Divisional Clerk in pursuance to advertisement No.11/2019 dated 05.07.2019 (Annexure P-1) in BC-A category. He has secured 87 marks while the last selected candidate in this category has secured 88 marks. He has not been awarded five marks under the socio-economic criteria although he was 14 years of age when his father had expired on 21.04.2005 and the age of his father at that time was 41 years. He has duly furnished an orphan certificate issued by the Tehsildar (Annexure P-3) along

with the application form. There was no prescribed format in the advertisement and such an objection was raised only at the time of documents verification. He has also relied upon the judgment of a Coordinate Bench of this Court in the case of the **Sumit versus Haryana Staff Selection Commission**, bearing CWP No.10860 of 2020, decided on 05.10.2021.

Learned State counsel submits that as the certificate submitted by the petitioner was not in the prescribed form inasmuch as the age of his father at the time of death and the age of the petitioner at that time was not mentioned.

Heard.

The petitioner has secured 87 marks in BC-A category while the last selected candidate has secured 88 marks in this category. In the advertisement, it was stipulated that five marks would be granted under the socio-economic criteria if the father of the applicant had died before the age of 42 years or the age of the applicant was below 15 years at the time of the death of his father. The father of the petitioner had expired when he was less than 42 years of age and the age of the petitioner at that time was 14 years and 06 months which has been specifically stated by the petitioner in Column Nos. 3 and 4 of the application form under the socio-economic criteria. A copy of the application form is at Annexure P-4. The petitioner has also submitted an orphan certificate issued by the tehsildar on behalf of the Government of India (Annexure P-3) wherein the death certificate of the petitioner's father has been enclosed. The date of death of his father has been mentioned as 21.04.2005 and the date of birth of the petitioner has been mentioned in this certificate as 15.10.1990, meaning thereby the petitioner was less than 15 years of age at

that time. In the event of the petitioner being awarded five marks under the socio-economic criteria, he would get 92 marks which are more than the 88 marks obtained by the last selected candidate under BC-A category. The selection is stated to have been completed and learned counsel for respondent No.2 has submitted that there is no vacant post.

I am not inclined to disturb any selected candidate at this stage as the appointments have been made about a year back. A Coordinate Bench of this Court in the case of **Sumit versus Haryana Staff Selection Commission (supra)** had in somewhat similar circumstances directed that in case no vacancy is available, a supernumerary post be created to be adjusted in future vacancy. That case also pertains to the petitioner therein not being awarded five marks under the socio-economic criteria although he was less than 15 years at the time of his father's death.

Consequently, the petition is allowed and the respondents are directed to award five marks to the petitioner under the socio-economic criteria. His merit would thereafter be redetermined and in the event of him being found to have more marks than the last selected candidate in BC-A category, he would be adjusted against the supernumerary post of Lower Divisional Clerk to be created against a future vacancy. The needful will be done within a month from the date of receipt of certified copy of this order.

(ANUPINDER SINGH GREWAL)
JUDGE

August 25, 2022

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