

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.10529 of 2022
Reserved on: 08.09.2022
Date of decision: 14.09.2022

MANOJ

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Samrat Malik, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

JAISHREE THAKUR, J.

1. This is a petition that has been filed seeking issuance of a writ in the nature of certiorari to quash order dated 20.04.2022 (Annexure P-3), wherein the claim of the petitioner for appointment as Constable has been rejected, with a further prayer to issue a writ in the nature of mandamus to allow all the consequential benefits at par with the candidates, who have joined prior to the petitioner pursuant to having been appointed under the same advertisement.

2. In brief, the facts as pleaded, are that the petitioner herein, who was duly eligible, applied for the post of Male Constable (General Duty) pursuant to advertisement No.03/2018, Category No.1 as issued by the Haryana Staff Selection Commission. The petitioner herein appeared in the written examination vide Roll No.9031348569 held on 23.12.2018 and qualified the

same. Thereafter, the petitioner qualified the physical examination and the final result was declared on 02.04.2019. He was called for document verification and, thereafter, was kept on the waiting list. He received a call from the office or respondent No.3-Commission and was directed to approach the Commandant, 1st Battalion, HAP, Ambala City where petitioner along with other candidates were directed to get their medical examination done before joining the said post. Petitioner was examined in Civil Hospital, Ambala and was found to be medically fit but was not allowed to join. The other candidates were allowed to join as Constable in the month of November, 2019, but despite approaching the respondent-Commission for appointment, the necessary joining order was not issued to the petitioner. The petitioner filed a representation dated 21.01.2022 (Annexure P-1) before respondent No.2 but no decision was taken on the same. Having no option, petitioner filed CWP No.4418 of 2022 in this Court seeking an early consideration on his abovesaid representation. The said writ petition was disposed of on 07.03.2022 directing respondent No.2 to consider and decide the representation of the petitioner in a time bound manner. The claim of the petitioner was rejected on 20.04.2022 (Annexure P-3). Aggrieved against the impugned order denying appointment to the petitioner, the instant writ petition has been filed.

3. Mr. Samrat Malik, Advocate for the petitioner herein would content that the action of the respondents denying appointment to the petitioner despite the fact that he was on the waiting list and persons having lower marks than him have been offered appointments, is not sustainable and is violative of Articles 14 and 16 of the Constitution of India. It is submitted that nine candidates, who are lower in merit to the petitioner herein have already joined

as Constable in the month of November, 2019 and the petitioner had been deprived the same benefit. He further contended that during the pendency of the instant petition, though petitioner has been permitted to join as Constable but he has not been granted the benefits, which his juniors in merit having joined in 2019, are availing.

4. Pursuant to notice of motion having been issued on 18.05.2022, reply has been filed on behalf of respondent Nos.1 and 2, wherein it is stated that there was a delay in offering appointment to the petitioner herein on account of verification being conducted on the character and antecedents of the petitioner. It is submitted that the petitioner was reportedly involved in FIR No.0149 dated 22.07.2008, registered under Sections 419, 420 and 120-B of the IPC, at Police Station Kurukshetra University, Kurukshetra and the aforesaid verification process took time. It is also contended that the persons lower in merit were given the appointments prior to the petitioner as there was no criminal case pending against them and it is only on account of verification formalities that the petitioner herein was not offered appointment. However, on due verification, appointment has been given to the petitioner on 12.08.2022. He would submit that given the circumstances as noticed above, the instant writ petition has rendered infructuous.

5. I have heard learned counsel for the parties and in view of the fact that the petitioner herein has been offered appointment recently i.e. on 12.08.2022, it is only his claim for seniority and the other consequential benefits that has to be decided.

6. Admittedly, the petitioner herein had applied for the post of Male Constable (General Duty) while giving full details of FIR No.0149 dated

22.07.2008 having been registered against him though he was acquitted in the same on 06.01.2012 i.e. prior to submission of his application for appointment to the post of Constable. Information was sought regarding his character and antecedents from the office of the District Magistrate, Panipat vide letter dated 14.11.2019 and the same was also endorsed to the office of the Superintendent of Police, Panipat, which information was received within ten days thereafter that the petitioner herein stood acquitted in the abovesaid FIR. There has been apparently an inordinate delay thereafter in completing the process of joining of the petitioner. The act and conduct of the petitioner herein is not such that any delay can be attributed to him. He had not furnished any false information in his character and antecedents forms and, therefore, the procedural delay caused on behalf of the respondents cannot deprive the petitioner herein of his seniority especially when no cause of any delay, can be attributed to him.

7. Consequently, this Court has no hesitation in directing the respondents that the petitioner's appointment shall relate back from the date when the candidates who had lower marks than the petitioner herein were appointed. The petitioner shall be granted the benefits of length of service, seniority etc. on the basis of his merit position, however, will not be entitled to any monetary benefits.

8. The instant writ petition is disposed of accordingly.

14.09.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No