

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

CWP-11438-2020

Reserved on 18.11.2022

Pronounced on: ~~18~~ 16.12.2022

Manpreet Kaur

.... Petitioner

Versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rajbir Singh, Advocate,
for the petitioner.

Mr. Sehajbir Singh Aulakh, AAG, Punjab.

JAISHREE THAKUR.J

1. The petitioner herein seeks a writ in the nature of certiorari for quashing the entire selection process made under advertisement dated 23.11.2016, Annexure P-1, for the post of Male and Female Constable (Sports person)-2016 and also the merit list prepared (Annexure P-14), on the ground that her entire sports achievements certificates were not taken into consideration and she is more meritorious than the selected candidates i.e. respondents No.4 to 10.

2. The brief facts of the case are that respondent No.3 advertised 289 posts of Male and Female Constables (Sports persons) vide advertisement No.02/2016, dated 23.11.2016, Annexure P-1. Online applications were invited from eligible candidates and the recruitment guidelines were also published vide Annexure P-2. The petitioner, being eligible, applied for the post of Female Constable as per the advertisement/

guidelines under Sports Category in General category. There were 12 posts reserved under the said category. She was issued an admit card and after the physical test, she was called for sports trial. On 24.12.2016, 36 candidates attended the trial. The petitioner got 20 out of 25 marks and was declared pass in the sports trial. Thereafter, in March, 2017, the petitioner attended the counseling as called by the respondent-department. On 04.05.2017, result was declared, however, the petitioner did not find her name in the merit list of selected candidates. The petitioner made an enquiry and came to know that while preparing merit list, her sports achievement certificates have not been taken into consideration. She along with her father approached respondent No.3 and she was given assurance that her name is placed in the waiting list at serial No.1 and they will consider her candidature at the appropriate time. In June, 2018, the petitioner again approached respondent No.3 for considering her name for appointment , however, she was told that the period of waiting list has expired. On 11.07.2018, she made a detailed representation to respondent No.3, which was followed by another representation/reminder dated 28.06.2019 for considering her candidature to the post of Constable, but no action was taken thereon. It is submitted that under similar circumstances, one Jyoti Saini and Gurminder Singh, whose certificates were also not considered, approached this Court by way of CWP No.30800 of 2018, titled *Jyoti Saini Versus State of Punjab and others* and CWP No.1462 of 2018 titled *Gurminder Singh Versus State of Punjab and others*, and this Court had directed respondent No.3 to consider both the petitioners for appointment to the post of Constable. She tried to contact said Jyoti Saini and her counsel, but due to Covid pandemic, she could not do so

and it is only in July 2020 when some relaxations were given by the government in the lockdown, she obtained copy of the writ petition filed by Jyoti Saini and came to know that respondent No.3 selected respondents No.4 to 10 who were less meritorious than the petitioner.

3. Learned counsel appearing on behalf of the petitioner herein would contend that the marks for her sports achievements come to 46, whereas against the maximum of 25 marks, she was awarded only 12 marks and after adding 20 marks achieved in the Sports trials, the total marks awarded to her come to be 32. It is also argued that the department reconsidered the sports achievement certificates of male candidate Gurminder Singh and female candidate Jyoti Saini, but in the case of petitioner, it was not done so despite the fact that she had already given representations to the department, which are still pending consideration. Another contention raised is that respondents No.4 to 10 were having lesser marks than the petitioner and despite that, her candidature was not considered for selection to the post of Constable. It is also contended that she could not take up the matter with the higher authorities and the court of law because of the fact that she was given assurance by the respondent department that she is at serial No.1 in the waiting list and her candidature will be considered at the appropriate time. She was hopeful for her selection as against 12 posts, the respondent-department had selected only 11 candidates and one post was still vacant.

4. Learned counsel appearing on behalf of respondents No.1 to 3-State would argue that the petitioner was not selected as Constable for the

reason that she obtained only 32 marks i.e. 20 in sports trials and 12 for sports achievements whereas the last selected candidate, namely, Mandeep Kaur achieved total 33 marks. Moreover, at the time of scrutiny of documents, the petitioner produced the sports achievement certificates, annexed as Annexure P-7 and P-12, which were considered and she was awarded 12 marks for those certificates. The other sports certificates, Annexure P-9 and P-10, as produced by her, were not considered as these certificates were of North Zone Level Competitions and as per the criteria fixed in Standing Order No.13/2016 (Annexure P-2), such certificates were not to be considered. The certificates which the petitioner has now annexed with this petition as Annexures P-6, P-8, P-11 and P-13 were not produced at the time of scrutiny of documents and now at this belated stage, these certificates cannot be considered as the selection process was for the year 2016 and the result thereof was declared on 04.05.2017. The petitioner could have approached the appellate authority i.e. respondent No.2 as per clause 12 of the advertisement, Annexure P-1, and clause 9 of the Standing Order, Annexure P-2, within a period of 30 days from the date of declaration of the result, but she did not opt to do so. There were 12 vacancies in sports discipline of Athletics for female Constable and only 11 female candidates were selected by the Recruitment Board and 1 post which was reserved for the scheduled caste category candidate was vacant due to non-availability of suitable candidate of that very category, and the petitioner, being a General Category candidate, cannot claim her right to be considered against that reserved post of Scheduled caste category. It is further submitted that the sports achievement certificates of the candidate Gurminder Singh, who

approached this Court by way of CWP No.1462 of 2018, were not considered by the Recruitment Board because his age was less than 18 years at the time of competitions nor did he produce the original sports certificates, and such was the case of Jyoti Saini (petitioner in CWP No.30800 of 2018) and one Rajinder Singh (petitioner in CWP No.10125 of 2017) whose sports certificates were re-examined by the Recruitment Board, but the case of the petitioner was different to those candidates as her sports certificates at Annexure P-9 to P-11 were of North Zone Level Competitions and such certificates were not to be considered as per the criteria fixed in Standing Order (Annexure P-2). Moreover, at the time of counseling, on 16.02.2017, at PAP Headquarters, Jalandhar, the petitioner had stated in writing that she had submitted photocopies of all certificates of her sports achievements to the Recruitment Board and also shown the originals thereof. The certificates now attached with this petition cannot be considered at this belated stage. It is also submitted that respondent No.3 never received the representations, as stated to be submitted by the petitioner.

5. I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the pleadings of the case.

6. The sole contention of the petitioner is that at the time of selection for the post of Female Constable, her all sport achievement certificates have not been taken into consideration, whereas, the stand of the respondents-State is that whatever document was produced by the petitioner at the time of scrutiny of documents was considered by the Recruitment Board and moreover, she has stated in her undertaking that she has submitted

all her certificates and shown the original thereof. But now by producing fresh certificates, her candidature cannot be considered for appointment to the post of Constable and that too at this belated stage when the result was declared in the year 2017.

7. The question that would require consideration is whether the petitioner ought to have been offered appointment under the sports quota. The petitioner herein had been given 12 marks in all for her sports achievements. In fact, she had been given 04 marks for 56th National Inter-State Senior Athletics Championships organized by Telangana Athletic Association at Hyderabad from 28.06.2016 to 02.07.2016 (Womens 4x400 Relay) and 08 marks for All India Inter-University Athletics held at Punjabi University, Patiala from 29.12.2015 to 03.01.2016. Her participations in the North Zone Level Competitions have not been taken into consideration as these sports certificates are not to be considered in terms of the Standing Order No.13/2016. An averment has been made that the petitioner had also participated in the Women 200 mtrs run as an athletic in the 56th National Inter-State Senior Athletics Championships organized at Hyderabad, the same athletics championship where she had participated in Women's 4x400 Relay. It is contended that all certificates were supplied by her but her individual event was not taken into consideration, whereas, the categorical stand of the respondent State is that all certificates as submitted by the petitioner were taken into account and that she had signed a declaration form stating that all her certificates had been submitted. A dispute question of facts arises as to whether the certificates as sought to be relied upon by the

petitioner were ever supplied to the respondents at the time of scrutiny for taking into consideration and award her marks.

8. In view of the categoric stand as taken by both the petitioner and as well as the respondent, that the certificates were supplied/not supplied, this Court is handicapped in taking a decision thereon. Though the High Court in a writ petition is competent to go into disputed question of fact, but in the present case there is nothing to substantiate that the necessary certificates had been supplied nor is there any list of documents as supplied to Recruitment Board made available. On the other hand, there is a declaration of the petitioner that all her documents had been supplied and shown to the Board.

9. Another factor that also influences this Court not to interfere is that the selection process was completed in the year 2017 and thereafter, the petitioner alledgedly approached respondent No.3-Chairman, Central Recruitment Board, only in July, 2018 and followed it up by another representation dated 28.06.2019, the receipt of which representations is denied by the respondent. The petitioner also would have had a remedy of filing an appeal in terms of clause 12 of the advertisement issued. The Director General of Police, Punjab, was the appellate authority for any kind of redressal of a grievance related to the final result and in terms of said clause, a candidate having a grievance against the final result declared, was to make a representation in writing within 30 days of such declaration, which was not done in the instant case. Moreover, as on date, there is no vacancy available for appointment of any candidate under the General Category in

sports quota.

10. Therefore, considering the entirety of the case and the disputed question of facts that arises, coupled with the non-filing of appeal before the appellate authority within 30 days of declaration of result coupled with delay in filing representations and the writ petition, this Court is not inclined to interfere in the matter.

11. Consequently, the writ petition stands dismissed.

(JAISHREE THAKUR)
JUDGE

16.12.2022

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No