

111.

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

CWP No.14814 of 2022 (O&M)

Date of Decision: 14.07.2022

PARMOD KUMAR AND OTHERS

.... Petitioners

Versus

STATE OF HARYANA AND ANOTHER

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rajat Mor, Advocate, for the petitioners.

JAISHREE THAKUR.J (Oral)

CM-9946-2022

Application is allowed, as prayed for.

CWP No.14814 of 2022

The instant writ petition has been filed under Articles 226/227 of the Constitution of India seeking a writ in the nature of Mandamus directing the respondents to award additional 5 marks to the petitioners under the socio economic criteria.

It is submitted that out of 5 petitioners, 4 were under the age of 15 at the time of death of their father whereas one though was beyond that age but his father was under the age of 42 years when died.

Learned counsel for the petitioners would contend that all the petitioners herein had applied for the post of Male Constable pursuant to an advertisement No.4/2020 and had submitted relevant documents at the time

of filling and uploading their respective application forms. It is contended that under the heading of “Miscellaneous (a)(ii) (ii)” of the advertisement, there was a clause which enumerated that 5 marks shall be given if the applicant is the first or the second child and his father had died before attaining the age of 42 years. Clause (a)(ii)(iii) would provide that 5 marks shall be given if the applicant is the first or the second child and his father had died before the applicant had attained the age of 15 years. It is submitted that all the 5 petitioners being the applicants for the post of Male Constable had tick marked the relevant place claiming 5 marks under this clause. They also supplied the necessary information regarding their age as also the age of their father at the time of his demise.

Learned counsel for the petitioner would submit that the petitioners have been denied the necessary benefit only on the ground that they had not mentioned whether they were the first or the second child despite the fact that they had answered in the positive that they were first/second child. It is also submitted that similar issue came up for hearing though for a different post, advertised by the Haryana State Selection Commission, as to whether a candidate could be denied the benefit of 5 marks only on the ground that he had not specifically mentioned whether he was the first or the second child despite having affirmed in the positive and the action of the Commission was set aside. He has relied upon judgment rendered in *Nisha Versus Haryana Staff Selection Commission*, CWP No.11894 of 2021, decided on 30.07.2021 to buttress his arguments. Counsel would urge that merely on account of the fact that the petitioners had not mentioned whether they were the first or the second child, would not

bar them from granting the additional marks as has been held in a subsequent judgment rendered in ***Sumit Versus Haryana Staff Selection Commission***, CWP No.10860 of 2020, decided on 05.10.2021.

It is submitted that the petitioners herein would be satisfied in case the respondent herein considers the claim of the petitioners for the additional marks by taking into account the judgment as rendered in ***Sumit's case*** (supra). It is submitted that the petitioners would also be covered by the judgment rendered in ***Nisha's case*** (supra) as the petitioners had submitted all relevant documents at the time of scrutiny.

Notice of motion.

At this stage, Ms. Kirti Singh, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondents.

Let sufficient number of copies of the complete paper book be supplied to her during the course of day.

Since the claim of the petitioners herein has been limited to the grant of 5 additional marks by relying upon the judgments as rendered by the coordinate Benches of this Court in ***Sumit*** and ***Nisha's*** cases (supra), the writ petition is disposed of without commenting on merits of the case, by giving a direction to the respondent-Haryana Staff Selection Commission to consider the instant writ petition as a detailed representation filed on behalf of the petitioners herein and in case the petitioners herein are found to be covered under the said judgments which have now attained finality, let necessary marks be awarded to them. The said exercise be done within a period of one month from today and in case the petitioners are found eligible for the additional marks, and on grant thereof in case the petitioners come into the

selection zone, let the necessary recommendations be made thereafter forthwith.

The petition is disposed of on the above terms.

14.07.2022

sanjeev

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No