

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

**CWP No. 14154 of 2017
Reserved on: May 16, 2022
Pronounced on: May 27, 2022**

PRITAM

...Petitioner

VERSUS

HARYANA STAFF SELECTION COMMISSION AND ANOTHER

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Anurag Goyal, Advocate
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

JAISHREE THAKUR J.

1. The petitioner herein has approached this Court under Articles 226/227 of the Constitution of India seeking a writ in the nature of mandamus to be issued to the respondent-Commission to consider the candidature of the petitioner in the category of Scheduled Caste instead of B.C.-B category, as per his application form (Annexure P-3) and offer him appointment to the post of Constable (General Duty) under the said category.

2. In brief, the facts are that 5000 posts of Male Constable (General Duty) were advertised on 19.07.2015 vide advertisement No.08/2015 under category No.1, out of which 1000 posts were to be filled up from the Scheduled

Caste category candidates. As per the said advertisement, the selection process included four tests i.e. Physical Screening Test (PST), Knowledge Test (KT), Physical Measurement Test (PMT) and finally interview-cum-personality test and three times the number of vacancies in each category were to be called for interview-cum-personality test on the basis of combined score in all the above tests.

3. The petitioner herein submitted his application form and in the said form, he mentioned his category as Scheduled Caste along with certificate No.SC/MGH/28 issued by Tehsildar, Mohindergarh on 11.01.2014. The copy of the said application form is Annexure P-3. However, the petitioner was issued an admit card dated 15.03.2016 (Annexure P-5) for Physical Screening Test by the respondent-Commission mentioning therein his category as BCB. The petitioner met the authorities on the date of Physical Screening Test and told them about the same and under the assurance of the authority concerned, he was allowed to give his Physical Screening Test and passed the same. Thereafter, petitioner was issued another admit card for Knowledge Test dated 09.08.2016 (Annexure P-6), wherein his category was again mentioned as BCB. After receiving the said admit card for Knowledge Test, petitioner immediately filed an application dated 17.08.2016 (Annexure P-7) seeking for discrepancy to be corrected. He was allowed to appear in the Knowledge Test and cleared that too and another admit card was issued to him for Physical Measurement Test dated 06.10.2016 (Annexure P-8), wherein again the situation was the same as before. Resultantly, the petitioner immediately submitted another application dated 07.10.2016 (Annexure P-9) to the authorities for the correction to be made in his category. Then on the date of Physical Measurement Test, the respondent-Commission specifically clarified in the form,

which was downloaded by the Commission itself that the category of the petitioner is Scheduled Caste as in all his certificates, his category is Scheduled Caste. Then again, admit card dated 24.05.2017 (Annexure P-11) was issued by the respondent-Commission for the purpose of interview, in which again the category of the petitioner was mentioned as BCB. Again petitioner moved an application (Annexure P-12) to the respondent-Commission to this effect but the respondent-Commission did not pay any heed to the grievance of the petitioner herein. As the candidature of the petitioner herein has been considered under the BCB category instead of Scheduled Caste category as mentioned in the online application, the instant writ petition has been filed.

4. Learned counsel for the petitioner herein would contend that the petitioner belongs to Scheduled Caste category and he has a supporting certificate in support of the same. He submits that in the online application form, it has categorically been mentioned that he belongs to Scheduled Caste category, however, for the reasons best known to the respondent-Commission, he was issued the admit card under the BCB category. He submits that at every stage, applications were addressed to the respondent-Commission seeking for correction of his category, however, the same was not done. It is also submitted that on the date of Physical Measurement Test, the Commission had accepted the category of the petitioner to be Scheduled Caste and made a noting on his application form that the category of the petitioner is Scheduled Caste as in all his certificates, his category is mentioned as Scheduled Caste. He would rely upon Annexure P-10, which is purported to be a xerox copy of the noting made by the Commission itself. It is submitted that if he is treated in the Scheduled Caste category, he would have the necessary marks and would come into the zone to be considered as

eligible for the post of Constable (General Duty) as petitioner has scored 58/59 marks and the last selected candidate in the Scheduled Caste category has scored 54.60 marks.

5. Learned State counsel would contend that the petitioner herein is seeking for change in the category having applied under the BCB category. It is argued that all the admit cards issued to the petitioner herein have been under the BCB category. It is submitted that the petitioner herein has applied under two categories i.e. under the Scheduled Caste category and the BCB category in violation of the instructions issued that only one application form can be filled in. It is submitted that the petitioner herein has got two certificates issued, one from Tehsildar, Mohindergarh reflecting him to be of the Scheduled Caste category and another certificate issued from Naib Tehsildar, Bawal, reflecting him to be of the BCB category just to avail the benefits of either of the categories at the appropriate stage.

6. I have heard learned counsel for the parties and have also perused the paper-book with the documents annexed with it.

7. It is not in dispute that advertisement No.08/2015 was published inviting online applications under category No.1, in which the petitioner applied. 5000 posts of Male Constable (General Duty) were re-advertised, out of which, 1650 posts had been kept for General category, 1000 posts for Scheduled Caste category, 800 posts for BCA category, 550 posts for BCB category, 500 posts for SBS category and 500 posts for EBPB category. The case as set up by the petitioner is that in his online application form bearing form No.100158029, he had applied under reserved Scheduled Caste category and has uploaded the *certificate*

No.SC/MGH/28, issuing authority Tehsildar, Mohindergarh, date of issue 11.01.2014. Since the admit cards were issued under the BCB category on 15.03.2016 and 09.08.2016 for the Physical Screening Test and Knowledge Test, he made requests for changing of his category from BCB to Scheduled Caste, however, the change was not reflected in the admit card issued for scrutiny of documents-cum-Physical Measurement Test to be held on 24.10.2016 (Annexure P-8). Immediately after issuance of admit card, the petitioner again requested the respondent-Commission for change of his category to Scheduled Caste. It was categorically averred by the petitioner in his application given to the Commission (Annexure P-9) that having cleared the Physical Test and written test under the BCB category, he would not be able to have BCB category certificate to show at the time of scrutiny of documents considering that he had Scheduled Caste certificate not BCB certificate and necessary correction be made. It is a categorical case of the petitioner that when he appeared for Physical Measurement Test and scrutiny of documents, a noting was made by the Commission itself that the petitioner belongs to the SC category mentioning that all his certificates pertained to the Scheduled Caste category and reliance in this regard is placed upon Annexure P-10. It is also submitted that there is no occasion for the petitioner to have uploaded second form giving the details of BCB category since the said BCB certificate belongs to one Anil Kumar son of Chhote Lal, who had also applied for the said post as well. It is argued that the petitioner herein has been approaching the respondent-Commission right from the very beginning for change of his category from BCB to Scheduled Caste and that too much prior in time to the result being declared, so it cannot be said that the petitioner herein is trying to take undue advantage of getting his category changed at a later stage. Whereas,

vehement argument of the respondent-State is that the petitioner had applied under the two categories, one under the BCB category and another under SC category and, therefore, by virtue of the judgment rendered by a Coordinate Bench of this Court in CWP No.18442 of 2014, titled as “Baljinder Singh versus State of Haryana and Another”, decided on 28.02.2017, the instant writ petition ought to be dismissed.

8. It is important to note that 1000 posts had been reserved to be filled up from the Scheduled Caste category candidates, which is double to that of the posts kept up for BCB category and, therefore, chances of a candidate getting selected would be double-fold, if he is applying under the Scheduled Caste category. The petitioner herein has been vigilant right through in trying to get his category changed but to no avail. A perusal of the application form as furnished with the writ petition (Annexure P-3) would clearly show that the petitioner herein had filled his reserve category as Scheduled Caste based on the certificate issued by the Tehsildar, Mohindergarh dated 11.01.2014 whereas, respondent-Commission is relying upon the online application form purportedly filled by the petitioner herein with the BCB category certificate, which in fact belongs to one Anil Kumar son of Chhote Lal, who himself had applied for the said post.

9. A perusal of the final result (Annexure P-15) would reflect that the cut-off in the SC category is 54.60 marks, whereas the petitioner herein has got 58.90 marks, which is exclusive of the marks that would have been given to him for the interview, which in any case would take him into the zone of consideration for appointment to the post of Male Constable under SC category. If the respondent-Commission is relying upon the online application form purported to

have been filled in by the petitioner under the BCB category , he would then also have the necessary marks as he would necessarily have to be given marks for his interview, taking his total marks to be 61.90 as per Annexure R-1/1, which is within the cut-off marks for the BCB category.

10. On the asking of the Court, whether Anil Kumar son of Chhote Lal, whose BCB category is alleged to have been used by the petitioner has been offered appointment or not, the answer was in negative. The respondent-Commission would have been justified in denying appointment to the petitioner herein had he kept silent and approached the respondent-Commission for change in his category after the result had been declared. He has been agitating right from the very time when he was issued an admit card for his Physical Screening Test and Knowledge Test , stating that he belonged to SC category and his category needs to be changed from BCB to SC, but his grievance was not attended to. The other reason that persuades this Court to allow the instant writ petition is the photocopies of documents supplied by the respondent-Commission itself, which were retained in the High Court, where there is a noting which reads as ***“Category is SC, All certificates category is SC”***, which noting is annexed as Annexure P-10. This noting is reflected in hand and over the column category. The Commission itself had noted that all certificates of the petitioner pertain to the SC category. Moreover, documents as supplied by the Commission would reveal that there are sufficient representations at each stage asking for the correction to be made and to treat the petitioner in SC Category.

11. In the instant case, the petitioner, as noted above, had been agitating from the very beginning to have his category changed from BCB to SC and in that

regard, several applications were addressed to the respondent-Commission but to no avail. On account of some technical glitch that may have taken place, the entire career of the petitioner herein cannot be put to *jeopardy*. As one post of Male Constable (General Duty) stands reserved under the Scheduled Caste category by the order of this Court passed on 04.07.2017, therefore, the respondents are directed to issue offer of appointment to the petitioner herein for the post of Male Constable (General Duty) in the SC category, if all other necessary conditions are satisfied.

12. The instant petition stands allowed in the above terms.

(JAISHREE THAKUR)
JUDGE

May 27, 2022
Chetan Thakur

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No