

109.

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

CWP-17008-2022 (O&M)

Date of Decision: 04.08.2022

AARTI

.... Petitioner

Versus

STATE OF HARYANA AND OTHES

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

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

JAISHREE THAKUR.J (Oral)

CM-11591-CWP-2022

Application is allowed, as prayed for.

CWP-17008-2022

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 petitioner under the category of being a fatherless child, which marks she would be entitled to as specified under the advertisement.

It is submitted that the petitioner herein had applied for the post of Female Constable, vide advertisement No.4/2020 on 30.12.2020, under category No.2, and had duly mentioned in her application form that her father had died before he had attained the age of 42 years and his age was mentioned as 35 years. She had also mentioned that she was 12 years of age

when her father died. However, her candidature has been ignored as she had not mentioned that she was first or second child. The relevant documents were duly furnished at the time of scrutiny of documents.

It is also submitted that a 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 for the petitioner would urge that merely on account of the fact that the petitioner had not mentioned whether she was the first or the second child, would not bar her 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 petitioner herein would be satisfied in case respondent No.2 herein considers her claim for the additional 5 marks by taking into account the judgment as rendered in *Sumit's case* (supra). It is submitted that the petitioner would also be covered by the judgment rendered in *Nisha's case* (supra) as the petitioner 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 petitioner 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 petitioner herein and in case the petitioner herein is found to be covered under the said judgments which have now attained finality, let necessary marks be awarded to her. The said exercise be done within a period of one month from today and in case the petitioner is found eligible for the additional marks, and on grant thereof in case the petitioner comes into the selection zone, let the necessary recommendations be made thereafter forthwith.

The petition is disposed of on the above terms.

(JAISHREE THAKUR)
JUDGE

04.08.2022

sanjeev

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No