

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.26293 of 2016
Reserved on: 27.10.2022
Date of decision: 04.11.2022

SUKHROOP SINGH

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. B. D. Sharma, Advocate
for the petitioner.

Mr. Mohit Kapoor, Addl. A. G., Punjab.

Mr. A. S. Khinda, Advocate
for respondent No.3.

JAISHREE THAKUR, J.

1. This writ petition that has been filed seeking issuance of a writ, order or direction in the nature of certiorari for quashing the action of the respondents-State in not considering the candidature of the petitioner herein under the category “*Wards of Police Personnel*” during the selection process of Constables in the District Police Cadre and Armed Police Cadre of Punjab Police despite an admitted fact that the father of the petitioner, Assistant Sub-Inspector Ajit Singh had taken part in at least three encounters with terrorists and, therefore, the petitioner would be entitled to appointment under the category “**Wards of Police Personnel**”, and further for issuance of a writ, order or direction in the nature of mandamus directing the respondents-State to

consider the case of the petitioner under the said category .

2. In brief, the facts as alleged are that Assistant Sub-Inspector Ajit Singh i.e. father of the petitioner herein is working with the Punjab Police and while working, he was actively involved in curbing terrorism in the State of Punjab. He participated in various police encounters against terrorists and details of such FIRs are annexed as Annexure P-1. The petitioner herein applied for recruitment as Male Constable in the District Police Cadre and Armed Police Cadre pursuant to advertisement No.1/2016 dated 31.05.2016 (Annexure P-3). As per clause 5 of the said advertisement relating to reservation of seats, 2% seats were reserved for "*Wards of Police Personnel*". The petitioner being fully eligible, applied under the said advertisement and submitted his online application form under the "General Category" within the specified date and was issued provisional admit card vide roll No.12118256. However, due to an inadvertent mistake or error in the website/server or because of petitioner herein not an expert in submitting online form, he could not specify the fact that he belongs to the category of "*Wards of Police Personnel*". The petitioner contacted the respondents-State for modifying the mistake but he was informed that there is no procedure to rectify any mistake filled in the online application form and his candidature will be considered for category "*Wards of Police Personnel*" at the time of Interview-cum-Personality Test. It is stated that the petitioner claiming to be "*Wards of Police Personnel*" would be entitled to four marks in case he is treated as such. The final list was prepared and published and the petitioner herein was shown to have obtained total 27 marks in all i.e. 15 marks for his Physical Measurement Test and 12 marks for his educational qualifications. The last selected candidate has

obtained 27 marks, whereas the cut off score in the General Category in the Armed Police Cadre is 28 marks and the cut off score in the District Police Cadre is 29 marks. Aggrieved against non-grant of additional four marks for being “Wards of Police Personnel”, the instant writ petition has been filed.

3. Learned counsel appearing on behalf of the petitioner herein would contend that inadvertently, the petitioner who is “Wards of Police Personnel” filled in his online application form in the “General Category”, whereas in fact, his father who is serving as Assistant Sub-Inspector in the Punjab Police had encountered terrorists, which would be reflected by the certificate dated 10.11.2016 as issued by the Deputy Inspector General of Police, Ferozepur Range, Ferozepur Cantt. (Annexure P-2). It is submitted that the petitioner on coming to know that he had filled in the general category instead of under the category “*Wards of Police Personnel*”, approached the department for rectification of the mistake but was informed that there is no such procedure. He would rely upon a certificate dated 10.11.2016 issued by the Deputy Inspector General of Police, Ferozepur Range, Ferozepur Cantt. (Annexure P-2) reflecting that the petitioner is the son of Assistant Sub-Inspector Ajit Singh, who took part in action against terrorists. He would further rely upon a judgment rendered by Supreme Court in **Dolly Chhanda versus Chairman, JEE, 2004 (4) SCT 546**, to argue that once the petitioner is in possession of a certificate declaring him to be eligible under the “Police Wards” for 2% quota, denial of additional marks is unconstitutional. He would further rely upon a judgment rendered by the Supreme Court in **Charles K. Skaria and others versus Dr. C. Mathew and others, 1980 (2) SCC 752**, in support of his argument.

4. Learned State counsel appearing on behalf of the respondents-State would submit that the petitioner knowingly applied for being enrolled as a Constable in the District Police Cadre and Armed Police Cadre pursuant to advertisement that was issued on 31.05.2016 in “General Category”. It is submitted that the last date of submission of the online application form was 21.06.2016 and the last date for deposit of fee was 23.06.2016. The petitioner herein was issued a provisional admit card (Annexure P-5) under the “General Category”. It is further submitted that the petitioner herein appeared in the selection process fully knowing the conditions in the advertisement dated 31.05.2016, wherein it was specifically mentioned that the candidates have to be extremely careful while filling in their online application form. The petitioner did not have any relevant document at the time of submission of his online application form pertaining to the fact that he was “*Wards of Police Personnel*” and, therefore, entitled to be considered under the 2% quota as the certificate that has been issued to him is dated 10.11.2016, which is after the last date of submission of the online application form and also well after the provisional admit card having been issued. He would rely upon a recent judgment rendered by Division Bench of this Court in *LPA No.226 of 2022*, titled as *Sweety Nagar versus State of Haryana and another*, decided on *23.08.2022*, to contend that any document coming into existence after the cut off date, cannot be considered while selecting a candidate.

5. Learned counsel appearing on behalf of respondent No.3 would argue in line with the arguments as raised by learned counsel for respondents-State and prayed dismissal of the instant writ petition.

6. I have heard learned counsel for the parties and with their assistance, have gone through the pleadings of the case as well as case law as cited.

7. The facts are not in dispute to the extent that the petitioner herein applied to be appointed as a Constable in both District Police Cadre and Armed Police Cadre pursuant to advertisement No.1/2016 dated 31.05.2016. The last date of submission of the online application form was 21.06.2016. The petitioner applied under the general category even though he is a son of a police official, who is already serving the department and had various encounters with the terrorists in the State of Punjab. The provisional admit card (Annexure P-5) was issued to the petitioner herein treating him to be under the general category and, thereafter, the petitioner who participated in the selection process was given total of 27 marks i.e. 15 marks for Physical Measurement Test and 12 marks for educational qualifications. Total of 27 marks, which were given to him were not sufficient to come on the select list since the cut off score in the general category in the Armed Police Cadre was 28 marks and the cut off score in the District Police Cadre was 29 marks.

8. The claim of the petitioner for being given four additional marks on the basis of being “*Wards of Police Personnel*” has not been considered for the reason that the certificate dated 10.11.2016 (Annexure P-2) as relied upon by the petitioner to treat him as “Wards of Police Personnel” was not issued to him prior to the provisional result which was declared on 26.10.2016. In **Charles K. Skaria’s case (supra)**, the question before the Supreme Court was regarding the impact of receipt of communication from the University after the last date for submission of the application, as to the students having obtained

diploma before the last date of the application. The Supreme Court upon considering the matter came to the conclusion that the proof of having obtained diploma was different from the factum of having obtained it prior to the date of application and that it was prudent to produce the evidence of diploma along with the application, however, the proof of having obtained the same prior to the last date could be produced later but before the date of actual selection. In *Dolly Chhanda's case (supra)*, the Supreme Court while observing that depending upon the facts of the case there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains to the domain of procedure. Every infraction of the Rule relating to submission of proof need not necessarily result in rejection of the candidature. There can be no relaxation in holding the requisite eligibility qualification before the last date fixed, however, some relaxation, in given cases, in the matter of submission of proof of having obtained the eligibility qualifications before the last date can be permitted to be submitted at a later stage but before the selection process is completed. Therefore the judgments as relied upon are distinguishable and not relevant to the facts of the present case.

9. In the case in hand, the petitioner applied under the general category for the post of Constable in the District Police Cadre and Armed Police Cadre. The provisional result was declared on 26.10.2016. The petitioner herein has not been able to establish that any attempt was made to have the correction done in his category in time between the last date of submission of his online application form and provisional admit card having been issued. From the perusal of the record, it would appear that the correction was sought only on 03.11.2016. It is submitted that documents were to be

supplied at the time of interview, but the interview in this selection did not take place. However, the certificate issued to the petitioner to establish that he was “*Ward of Police Personnel*” had itself been issued on 10.11.2016, well after the provisional result was declared . It would be gathered that the petitioner herein has sought a change in his category after the declaration of the provisional result dated 26.10.2016. It does not stand to reason that the petitioner herein underwent the entire process of selection as a General Category candidate and did not realise in fact that he should have applied under the 2% quota kept for a “*Wards of Police Personnel*”. In the advertisement issued, the terms and conditions of recruitment process were clearly mentioned advising the candidates to carefully go through the same before filling up the online application form, since no change can be made whatsoever once the online application form is submitted. The candidates were also asked to upload the documents as relied upon, which certificate reflecting the petitioner as a “*Wards of Police Personnel*”, was not done in the instant case. In fact, the petitioner was not in possession of the same at the relevant time.

10. Therefore, finding no infirmity in the action of the respondents-State in declining to consider the case of the petitioner herein under the 2% quota kept reserved for “*Wards Of Police Personnel*”, the instant writ petition sans merit and is accordingly dismissed.

04.11.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No