

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

CWP No.22028 of 2020 (O&M)

Date of Decision.14.09.2022

Vikas ...Petitioner

Vs

State of Haryana and others ...Respondents

2. CWP No.9691 of 2019

Vikash and others ...Petitioners

Vs

State of Haryana and another ...Respondents

3. CWP No.2669 of 2022

Vijay Kumar ...Petitioners

Vs

State of Haryana and others ...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Jasbir Mor, Advocate
for the petitioner in CWP No.22028 of 2020.

Mr. Rajat Mor, Advocate
for the petitioner in CWP No.2669 of 2022.

Mr. Jarnail S. Saneta, Advocate
for the petitioners in CWP No.9691 of 2019.

Mr. Tapan Kumar Yadav, DAG, Haryana.

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JAISHREE THAKUR J. (ORAL)

All three writ petitions are being disposed of by this common order as the issue involved is identical in all writ petitions.

The petitioners herein are seeking to challenge the merit list as prepared by the Haryana Staff Selection Commission for the posts of Male Constable (General Duty) in CWP Nos.22028 of 2020 and 2669 of 2022 and for posts of Sub Inspector in CWP No.9691 of 2019 as advertised vide

Advertisement No.3/2018 dated 16.04.2018.

Learned counsel appearing for the petitioners would contend that the petitioners had applied under Advertisement No.3/2018 dated 16.04.2018 whereby respondent-Haryana Staff Selection Commission, Panchkula had invited applications to fill in 5000 posts of Male Constable (GD) and 400 posts of Sub-Inspectors (Male). Petitioners, who had no other family member in government service nor were employed themselves, duly tick marked 'No' in online application form against the column asking for particulars 'whether there was any family member in a government service'. The petitioners had also applied under Advertisement No.4/2018 dated 26.08.2018 for Group D posts. The petitioners would contend that they have been denied 5 marks in their merit score for appointment as Constable/Sub Inspector on account of socio-economic criteria, which were to be allowed to them as no member of their family or they themselves were in a government job at the time of submission of application form as they came to be offered appointment for Group D posts subsequently.

Learned counsel appearing for the petitioners would further argue that their first option would be to seek appointment to the post of Constable/Sub Inspector under Advertisement No.3/2018. However, the respondent-Commission for the reasons best known to it, has decided to deny them appointment to the post of Constable/Sub Inspector only on account of the fact that they had been offered appointment on Group D post and therefore, having got government job, would not be entitled to get 5 marks under the socio-economic criteria under Advertisement No.3/2018. The petitioners at no point of time have accepted such offer nor joined on the Group D post. It is further argued that last date for submission of online

application form was extended up till 25.10.2018, on which date, they or any of their family members did not hold a government job and it is that date, which ought to be taken into consideration.

Learned counsel appearing on behalf of the respondent-State would submit that the petitioners herein have already been offered job under Advertisement No.4/2018 on Group D post and therefore, having a government job on the date of scrutiny of their documents, they could not ask for additional five marks under socio-economic criteria in any subsequent recruitment. He would also argue that the petitioners while appearing at the time of scrutiny with their original documents had filled in a form stating 'NA' against relevant column No.5A pertaining to socio-economic criteria and also signed a declaration, therefore, they would not be entitled to five marks under socio-economic criteria, as claimed.

I have heard learned counsel for the parties and have perused the paper books. The argument raised by the counsel appearing for the respondent-State has little appeal to this Court. It is an admitted fact that the petitioners, who had applied for the post of Constable/Sub Inspector pursuant to advertisement which had been issued much prior in time to the advertisement inviting applications for Group D posts, were not in government job at the relevant time. It also goes without saying that in case a person is to seek a job, he would prefer to be appointed as a Constable/Sub Inspector rather than on a Group D post, since the same carries higher responsibility and pay scale. As a matter of fact, petitioners have not accepted the offer for Group D post till date. Denial of five marks by the respondent-Commission to the petitioners by taking their eligibility for the same as on the date of scrutiny would not be justified.

This matter has already been dealt with in a judgment rendered by this Court in CWP No.8165 of 2021 titled as *Poonam Vs. State of Haryana and others* decided on 09.04.2021 where the situation was converse. The petitioner therein had applied by stating in her application form that there was one person in the family, who was in government job. Thereafter, during the pendency of the selection process, she got married and claimed five marks by stating that now her status has changed and in the matrimonial home, there was/is no one in government job. The Coordinate Bench of this Court held as under:-

“Petitioner at the stage of submitting online application form had clearly indicated that her father was in government service. By virtue of the prayer raised in the instant petition, she is wanting to gain advantage by virtue of change of circumstances that took place on 08.11.2020 when she got married. As per the specific condition reproduced herein above contained in the advertisement, the eligibility even as regards socio-economic criteria has to be seen as per closing date i.e. 25.07.2019. Petitioner cannot claim 5 additional marks under the socio-economic criteria on account of her marriage which took place on 08.11.2020 i.e much later than the closing date for determination of the eligibility i.e. 25.07.2019.”

It would also be worthwhile to note that the eligibility requirement of a candidate seeking employment, be it educational or socio-economic criteria, has to be considered as on the cut off date. The respondent-Commission while going into the issue of eligibility of a person

seeking more marks on account of higher qualification would not consider any degree that has been issued after cut off date. Similarly, it would be expected of the respondent-Commission to take into account the eligibility of a candidate as on the date of submission of application form in the matter of eligibility of extra marks under the socio-economic criteria as well.

Accordingly, these writ petitions are disposed of holding that the petitioners herein would be entitled to additional 5 marks under socio-economic criteria, there being no family member of theirs in government job as on the cut off date for the posts of Constable/Sub Inspector, however, they would then not be entitled to the benefit of job on the Group 'D' post. In case the petitioners come into zone of consideration, they will furnish affidavits that they give up their claim for Group D post. Needless to say, in case petitioners fall within the zone of consideration for selection to the posts of Male Constable (General Duty)/Sub Inspector, their names would be recommended for appointment on the said posts within a period of four weeks from the date of receipt of certified copy of this order.

Before parting with this order, this Court would like to observe that the respondent-Commission should take into consideration their stand regarding the issues as have arisen in the instant writ petition.

(JAISHREE THAKUR)
JUDGE

September 14, 2022

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No