

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

CWP-9343-2018

Reserved on 31.08.2022

Pronounced on: ~~1~~ 9.09.2022

Vishal Goswami

.... Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Dheeraj Chawla, Advocate, for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

JAISHREE THAKUR.J

1. The petitioner herein is seeking a writ in the nature of certiorari for quashing letter dated 22.08.2017, Annexure P-13, issued by respondent No.3 whereby his claim for awarding 03 marks for holding NCC certificates, has been rejected, for appointment to the post of Constable. He has also sought mandamus to the respondents to consider his case for appointment to the said post by adding 03 marks of having NCC certificates.

2. The brief facts, as pleaded, are that pursuant to advertisement No.8/2015 issued on 19.07.2015, the petitioner applied for the post of Male Constable (General Duty) in Haryana Police, under the BC(B) category. However, while submitting online application form, inadvertently against the NCC column, it was mentioned as 'No'. His candidature was rejected on the ground that neither in the online application form nor at the time of interview, did he produce the said certificates.

3. Learned counsel appearing on behalf of the petitioner would submit that the petitioner got his form filled through a Cyber Cafe, and due to some unavoidable circumstances, he was not able to fill 'Yes' in the column that he had got NCC certificates. It is also submitted that in the earlier advertisements issued vide advertisement No.2/2013, on 08.11.2013 and advertisement No.2/2014, dated 15.08.2014, by the Haryana Police Recruitment Board, the petitioner, while submitting his online applications, had mentioned 'Yes' against the NCC column. But nothing was done in the said selection process. In the present advertisement, the petitioner participated in the selection process. The final result was declared on 16.07.2017 whereby he scored 59.05 marks and found that he has not been awarded 03 marks under NCC category. He immediately submitted a representation dated 28.07.2017 before respondent No.2 in this regard and the Commission replied vide impugned letter Annexure P-13 that since he has not claimed in his application form nor produced the NCC certificate at the time of interview, therefore, no marks for the same can be awarded to him.

4. Learned counsel appearing on behalf of the petitioner would further submit that in case the petitioner is awarded 03 marks for the said qualification, he would come into the zone of consideration for recruitment as the last candidate who has been selected and appointed under the BC(B) category, has secured 61.90 marks. It is submitted that a small inadvertent mistake on his part cannot deprive him for appointment when the petitioner admittedly has valid NCC certificates. In support of his arguments, he has relied upon a judgment rendered in ***Jaideep Versus State of Haryana and***

others, CWP No.17449 of 2017, decided on 16.01.2019, where in similar circumstances, the petitioner inadvertently mentioned that he did not have NCC certificate, which he actually had. That writ petition was allowed with a direction to consider the claim of that petitioner for appointment.

5. On the other hand, learned State counsel would submit that no benefit of NCC certificate can be given to the petitioner as he had neither claimed that benefit in the application form nor produced the same at the time of interview. Moreover, the certificate produced later on was provisional and not original one. Reliance has been placed upon the judgment rendered in ***State of Bihar and others Versus Madhu Kant Ranjan and another, Civil Appeal No.7677 of 2021, decided on 16.12.2021***, where the Hon'ble Apex Court has held that only such documents are to be taken into account which stood uploaded along with application form.

6. I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the pleadings and the case law, as cited.

7. The grouse of the petitioner is that he has not been awarded the marks under NCC qualification category, which certificates he had with him. He has admitted that inadvertently while filling the online application form, against the NCC column, it was mentioned as “No” even though he had supplied the necessary certificate at the time scrutiny of documents. When the result was declared and he came to know that the marks under NCC had not been awarded to him, he immediately approached the authority concerned, but his request for rejected. Earlier also, the petitioner applied for the said posts advertised in the year 2013 and 2014, wherein he had

mentioned that he had NCC certificate, but in the present advertisement, he had to fill his application form through a Cyber Cafe due to some unavoidable circumstances and, therefore, the mistake has occurred. In support of his contention, counsel for the petitioner has relied upon the judgment in ***LPA No.320 of 2019, decided on 22.02.2019*** titled as ***Haryana Staff Selection Commission through its Secretary Versus Sarla and others***, wherein the Division Bench of this Court has opined that in view of the prevailing socio-economic conditions in our country, every citizen is neither a net savvy nor has a computer or laptop. In these circumstances, when such a candidate has to submit an application on-line, he has to depend upon the operator of cyber cafe and in such a circumstance if any mistake occurs, it would be wholly unrealistic and arbitrary to make a candidate suffer and deny him appointment if otherwise found suitable. The Division Bench also took note of the fact that if an incorrect entry is made due to human error, there is no provision on the website of the Commission allowing correction in the online application form. However, the said judgment would not be applicable in the present case.

8. The petitioner did not mention at the time of filling his application form that he had NCC certificate nor produced the original at the time of scrutiny of documents which was a condition to be complied with. The advertisement itself mentioned that all original documents must be brought at the time of interview. The contention raised that since the petitioner had supplied provisional certificate, can not be considered since the petitioner did not provide the original certificate as required. The provisional certificate supplied at the time of interview on 05.06.2017, dated

29.10.2014, which has a note is reproduced as under:-

“NOTE: This is a provisional certificate for interim period. Original certificate awaited. The provisional certificate will have to be deposited back with No.2 (Har) Air Sqn NCC, Karnal once original certificate is issued.”

As the petitioner was not in possession of the original certificate on the date of scrutiny of documents, therefore, would not be entitled to get the benefit of any additional mark. The petitioner has sought to rely on Annexure P-15 filed with the replication, which is a certificate dated 21.07.2021 issued stating that the petitioner had a genuine provisional NCC certificate, but said certificate also relates to a date after the last date of interview and scrutiny of documents. Thus, the same cannot be taken into consideration.

9. The judgment as relied upon by counsel for the petitioner in the case of ***Jaideep's case (supra)*** where the candidate had by mistake filled in 'No' against the column whether he possessed NCC certificate whereas he had such certificate, this Court had directed the grant of additional three marks. However, in that case, the question of original certificate not being produced was not in question. Therefore, the said judgment would not be applicable.

10. The judgment as relied upon by the respondents in ***State of Bihar and others's case (supra)*** has held that only those documents, which are submitted alongwith the application form, which are required to be submitted as per the advertisement, have to be considered. In the present case, neither did the petitioner mention that he had done NCC course, nor uploaded any certificate in this regard with the online application form. Be

that a mistake occurred while filling in the application form and the same could not be corrected, but even at the time of interview, he did not provide the original certificate and sought to rely on a provisional one.

11. Therefore, in view of the ratio as laid down in ***State of Bihar and others's case (supra)***, this Court is of the opinion that the benefit of 3 marks cannot be given.

12. Consequently, the writ petition stands dismissed.

(JAISHREE THAKUR)
JUDGE

19.09.2022

sanjeev

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No