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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-28656-2019

Date of decision: 05.12.2022

JUDGEDEEP SINGH

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. A. K. Khunger, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

JAISHREE THAKUR, J.

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing the second waiting list of BC category (Annexure P-3) prepared by the respondents, with a further prayer to issue appointment letter to the petitioner for the post of Constable under BC category as one post under the said category is lying vacant.

2. In brief, the facts as pleaded are that respondent No.3 invited applications for filling up 73 posts of Constables vide advertisement dated 22.10.2016 (Annexure P-1), out of which, seven posts were kept reserved for BC candidates. The petitioner herein claiming to be eligible, applied for the said posts under BC category. After considering the qualification of the candidates, first merit list (Annexure P-2) was prepared and four candidates were kept on

the waiting list, wherein name of the petitioner finds mention at serial No.3. However, subsequently waiting list of BC category candidates was replaced with another waiting list (Annexure P-3), wherein only two candidates were shown. Out of seven selected candidates, candidates at serial No.1 and 3 did not join as they had already joined other Government Departments and on that account, two posts remained vacant. According to the original waiting list, candidate at serial No.1 joined on one of the said posts, whereas, candidate at serial No.2 did not join. When the petitioner came to know that candidate at serial No.2 in the original waiting list did not join, he made a detailed representation dated 07.09.2018 (Annexure P-4) to respondent No.3, praying that as one post is lying vacant due to non-joining of the candidate at serial No.2 in the original waiting list under BC category, the petitioner be given the said post as he is next in the waiting list at serial No.3. As the petitioner herein was not considered for appointment, he filed CWP No.26628 of 2019 in this Court, which was dismissed as withdrawn vide order dated 24.09.2019, with liberty to file a fresh one on the same cause of action with better particulars. Hence, the present writ petition.

3. Learned counsel for the petitioner herein would contend that out of the seven selected candidates in the BC category, two posts remained vacant and candidate at serial No.1 in the waiting list joined one of the said posts. Candidate at serial No.2 in the waiting list did not come forward to join and, therefore, the petitioner being at the third position in waiting list was entitled to join on the said post. He would submit that the second waiting list was uploaded on the website, wherein only two candidates were shown in the waiting list, thereby denying the petitioner to join against the vacant post in the BC category.

4. Learned State counsel would submit that it is specifically mentioned in paras No.17 and 18 of the advertisement (Annexure P-1) that the waiting list in each category will be prepared upto 20 per cent of the posts advertised for each category. It is further submitted that the first waiting list Annexure P-2 comprising of four candidates was issued provisionally and, thereafter, final waiting list Annexure P-3 was prepared by the Recruitment Board, wherein two candidates were placed on the waiting list of BC category. She would contend that appearing of the name of the petitioner in the provisional waiting list confers no right upon him to be considered for appointment. It is argued that as per the parameters/instructions of the advertisement, the candidates to the extend of only 20 per cent of the posts were required to be included in the waiting list and since the name of the petitioner did not figure in the final waiting list, he cannot claim appointment on the post of Constable beyond the permissible limit of 20 per cent.

5. I have heard learned counsel for the parties and have also perused the pleadings of the case.

6. I find that there is no merit in the instant writ petition considering the fact that in para No.17 of the advertisement, it is specifically mentioned that the Recruitment Board shall prepare and maintain separate waiting lists of 20 per cent candidates from each category and the waiting list shall be valid till completion of selection process. As seven posts were reserved for BC category, only two persons were liable to be placed on the waiting list of BC category. The name of the petitioner herein did not find mention in the final waiting list prepared (Annexure P-3) comprising of two candidates, as he was placed at serial No.3 in provisional waiting list and in view of the same, he was not considered for appointment on the said post. Moreover, the petitioner herein

cannot claim appointment solely on the basis that his name reflected on the waiting list at one point of time and that too beyond the prescribed limit of 20 per cent and, therefore, there is no infirmity in the action of the respondents in denying appointment to the petitioner for the post of Constable under the BC category.

7. Consequently, the instant petition being devoid of any merit, is hereby dismissed.

05.12.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No