

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CWP-19186 of 2022 (O&M)

Date of Decision:- 17.7.2023

Jaswant Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Karambir Singh Chawla, Advocate for the petitioner.

Mr. Inderpreet Singh Kang, AAG, Punjab.

GURVINDER SINGH GILL, J.

1. The petitioner seeks issuance of a writ in the nature of Mandamus directing the respondents to consider petitioner's candidature for the post of Constable in Punjab Police in the category of Ex-servicemen Scheduled Castes (Mazhbi Sikh).
2. The learned counsel for the petitioner has submitted that pursuant to advertisement dated 31.5.2016 (Annexure P-1) issued by the Government of Punjab, the petitioner had applied for recruitment as Constable. It is the case of the petitioner that he belongs to Scheduled Castes, Sub-Category of Mazhbi Sikh but somehow he had not been considered in the said category and has been considered in the category of Ex-servicemen (Ramdasia and other Scheduled Castes). When the matter was taken up before a Co-ordinate Bench on 30.8.2022, the following order was passed :-

“ Counsel appearing on behalf of the petitioner herein would contend that the final merit list for appointment to the post of Constable in Punjab Police under the advertisement issued in the year 2016, has been prepared on 18.05.2022, however, the petitioner's name does not find mention either in the merit list or in the waiting list. It is further contended that the petitioner had applied under the SC category, however, his name does not find mention either in the SC (Mazhabi Sikh) category or the SC (Ramdasia and Others). However, without a categorical averment as to under which sub-category, the petitioner had applied, it is difficult for this Court to entertain the writ petition.

The matter is adjourned to 18.01.2023. Unless the petitioner is able to place on record copy of his online application form, this Court is not likely to entertain the writ petition.”

3. The learned counsel for the petitioner has today passed on a photocopy of application status which is taken on record and which shows that the category applied by the petitioner is ‘*Ex-servicemen (SC)*’.
4. The State having been furnished with a copy of the petition in advance, the learned State counsel has put in appearance. The learned State counsel has passed on a copy of letter dated 17.7.2023 and also a copy of ‘*Manual of Reservation of Scheduled Castes AND Backward Classes in Services*’, which are taken on record. Para 9 of the said Manual reads as under :-

“9. In the matter of direct recruitment 50% of the reserved vacancies for the members of Scheduled Castes will be offered to the members belonging to Mazhabi Sikhs/Balmikis, if available, as a first preference. If, the requisite number of candidates belonging to Mazhabi Sikhs/ Balmikis are not available, vacancies fallen to their share will be filled by the members of other Scheduled Castes. This 50% of the reserved vacancies will be given by offering reserved vacancies alternatively e.g, if vacancy filling at point No.1 is given to Mazhabi Sikhs/Balmikis next reserved point will go the other Scheduled Castes and so on. This will, however, not be applicable in promotions. Posts left unfilled in the quotas reserved for Balmikies/Mazhabi Sikhs, Scheduled castes, ex-serviceman and SC sports men, will be reserved up to 2% for Vimukhat Jaties and Bazigars.”

5. The aforesaid para clearly shows that while in the first instance, the 50% of the reserved vacancies for Scheduled Castes would be offered to members of Mazhbi Sikhs/Balmikis but on account of non-availability, the same would be filled in from the category of other Scheduled Castes. The petitioner never chose to specify his category as Mazhbi Sikh and consequently, he was not considered in the said category. As per letter dated 17.7.2023 filed today by the learned State counsel, the case of the petitioner had been considered in the category of Ex-servicemen SC (R&O) category as he had applied online in the said category and had never specified about his category as Mazhbi Sikh. The relevant extract from the said letter is reproduced herein-under:-

“3. That the petitioner has filed this present Civil Writ Petition after unexplained long delay of more than 6 years. It is worthwhile to mention here that recruitment case of the petitioner was considered in Ex-Servicemen SC (R&O) category as he had applied online in Ex-Servicemen SC category only and had not specifically mentioned his sub-option i.e. Ex-Servicemen SC (R&O) or Ex-Servicemen SC (M&B) as well as he had not attached his caste certificate with his online application form. Petitioner was not selected in Ex-Servicemen SC (R&O) category due to his low marks.”

6. Having regard to the aforestated position wherein the petitioner himself had never applied in the category of Ex-Servicemen SC (M&B) and had simply shown himself to be falling in the category of Ex-Serviceman SC, he cannot stake his claim in category reserved for Ex-Servicemen SC (Mazhbi Sikh/Balmiki). Still further, there is gross delay of 6 years in approaching this Court which

remains unexplained. As such, this Court does not find any ground for issuance of any Writ in the nature of Mandamus, as prayed for.

7. The petition is sans merit and is hereby dismissed.

17.7.2023

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(GURVINDER SINGH GILL)
JUDGE

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