

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.1111 of 2022 (O&M)

Date of Decision: 27.01.2023

Sukhroop Singh

... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

**Present: Mr. Bhriugu Dutt Sharma, Advocate,
for the appellant.**

ARUN PALLI, J.

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 04.11.2022, vide which the writ petition preferred by the appellant has been dismissed.

Learned counsel for the appellant merely reiterates the submissions that were advanced before the learned Single Judge: pursuant to an advertisement dated 31.05.2016, recruitment to 7416 posts of Male and Female Constable in District Police and Armed Police Cadre was carried out. Application forms were required to be submitted online from 31.05.2016 (9:00 AM) till 21.06.2016 (11:59 PM). In terms of clause 5 of the advertisement, 2% of the posts were reserved for the wards of Police Personnel. The appellant also competed for selection in the General Category. However, for lack of experience and internet usage/technology, he was not equipped/skilled to submit the application online. Resultantly, he wrongly applied in General Category, though he belonged to the Category of Wards of Police Personnel. For, his father, who was a serving officer in

Punjab Police, was engaged in three police encounters with terrorists. He

moved the authorities to rectify the mistake. But he was informed that for lack of any procedure to cure defect(s) in the online application(s), it was not feasible to accede to his request. However, he was assured that at the time of interview-cum-personality test, his candidature would be considered in the Category of Wards of Police Personnel. But, the interview-cum-personality test was abandoned by the authorities and final result was declared on the basis of the marks obtained by the candidates in physical screening test and the qualifying exams (10+2). Resultantly, even though, as per certificate dated 10.11.2016 (P-2), issued by the Deputy Inspector General of Police, the appellant was eligible to be considered under 2% quota reserved for the wards of Police Personnel, his claim/candidature was not considered in the said category. It is urged that appellant had obtained 15 marks in the physical measurement test and was granted 12 marks as regards the qualifying examination (10+2). Thus, he was awarded 27 marks, and was required to be placed at serial number 23 in the merit list of Wards of Police Personnel. Accordingly, the candidates shown at serial number 24 to 52 in the select list were below the appellant in order of merit. Learned counsel for the appellant places reliance upon the decisions of the Supreme Court in **Charles K. Skaria and others Vs. Dr. C. Mathew and others, 1980 (2) SCC 752** and **Dolly Chhanda Vs. Chairman, JEE, 2005 (9) SCC 779**. He also places reliance upon the decisions of this Court in **Haryana Staff Selection Commission through its Secretary Vs. Sarla and others (LPA-320-2019, date of decision: 22.2.2019)**; **Rina and another Vs. Vice Chancellor, Pt. B.D. Sharma University of Health Sciences, Rohtak and others, (LPA-1963 of 2017, date of decision:25.08.2022) & connected matters**; and **Haryana Staff Selection Commission Vs. Yogender Kumar and another (LPA-688-2020, date of decision: 06.07.2022)**;

We have heard learned counsel for the appellant and perused the record.

In context of the limited issue that arises for consideration, it would be expedient to refer to certain clauses of the advertisement (P-3). Per clause 7, Range/Commissionerate Recruitment Boards were required to conduct the recruitments for male candidates at each Range/Commissionerate headquarters. The physical measurement test (PMT) and physical screening test (PST) of a candidate was to be conducted on a single day. And only those candidates, who would clear the said tests, were to be called for interview on the Statewide merit list. The selection criteria comprised of three elements, i.e. height measurement: 15 marks (maximum), educational qualifications: 15 marks (maximum) and interview-cum-personality test: 04 marks. The marking system was specified in clause 9 of the advertisement, per which, marks ranging from 10 to 15 were to be awarded to the candidates, depending upon their height. Similarly, marks ranging from 10 to 15 were to be given, depending upon the marks obtained by the candidates in the qualifying exam of 10+2. Clause 10 envisaged that from amongst the candidates, who would qualify physical measurement and screening tests, a preliminary merit list would be drawn for each Range/Zonal/Commissionerate (separately for the District Police and Armed Police Cadre), on the basis of the marks obtained by the candidates in the height measurement test and the educational qualifications (30 marks). Whereupon, Central Recruitment Board was to combine all the preliminary merit lists and draw a Statewide preliminary merit list. And, on the basis of the merit position in the Statewide preliminary merit lists, the Central Recruitment Board was to select the candidates for interview-cum-personality test.

The candidates were required to submit the application forms from 31.05.2016 to 21.06.2016. It is not in dispute that appellant applied and competed in the General Category. Clause 13 (xvi) of the advertisement cautioned the candidates that due care be taken, while filling up the Common Application Form (CAF), and changes therein were permissible only till the time it was submitted:-

“(xvi) The candidate should take due care while filling up the Common Application Form. He/she is allowed to make changes in the CAF only till the time it is submitted. Once the Common Application Form has been submitted online, no changes whatsoever can be made thereafter. Therefore, the candidates are encouraged to fill the CAF carefully.”

The argument that immediately upon realizing that he had wrongly applied in the General Category, the appellant moved the authorities to rectify the error, would not advance his cause. Significantly, per clause 10 (*ibid*), the Statewide preliminary merit lists were prepared and the provisional result was declared on 26.10.2016. Whereas, the records show that appellant requested the department for a change in his category status from General to Wards of Police Personnel, vide application dated 03.11.2016. Needless to assert that immediately upon applying and competing in a particular category (reserved or otherwise), the candidates acquire certain rights and interest vis-à-vis each other. Thus, after declaration of the provisional results, it was not feasible to change the category status, as it would have led to serious complications.

The specific stand set out in the return submitted on behalf of respondents No.1 and 2 is that upon due consideration of the request of the appellant, the same was declined by the Central Recruitment Board. For, no

such change was allowed to any candidate at a subsequent stage. The assertion that the appellant was assured by the authorities that his claim would be considered at the time of interview-cum-personality test also remained unsubstantiated. In fact, there did not exist any provision that entitled the candidate to seek change in his/her category status. Significantly, claim of the appellant is predicated upon the certificate dated 10.11.2016 (P-2), which too was issued much after the declaration of the provisional result on 26.10.2016. Further, the argument as the interview-cum-personality test was abandoned, the appellant was deprived of an opportunity to produce the said certificate and show that he, indeed, was a ward of police personnel, is equally misconceived. For the appellant to succeed, he was/is first required to show that he had a right to seek change in his category status. Rather, as indicated above, clause 13 (xvi) envisaged in no uncertain terms that once the application form was submitted, no change, whatsoever, was permissible thereafter. Concededly, the appellant had scored 27 marks and the last selected candidate in the General Category in Armed Police Cadre (male) had obtained 28 marks. Similarly, in the District Police Cadre, the cut-off was 29 marks.

The decisions of the Supreme Court, relied upon by the learned counsel for the appellant, in *Charles K. Skaria* and *Dolly Chhanda (supra)*, were examined at length by the learned Single Judge, and it was observed that the same had no bearing on the matter in issue. We are in agreement with the said analysis. Still, suffice it to say, reliance on *Dolly Chhanda (supra)*, is misplaced, for the candidate therein had appeared for exam under the reserved category, unlike the appellant. Further, it was not a case where during scrutiny, no certificate was provided. In fact, a certificate dated 28.06.2003 was provided during scrutiny on 07.07.2003, which was found to

be not satisfactory. Thus, the candidature was rejected, but before the 2nd round of counseling, which took place on 29.10.2003 (on account of increase in seats), the candidate had obtained a fresh certificate dated 16.07.2003. Likewise, the case of ***Charles K Skaria (supra)***, was not the one dealing with filling of wrong information in the application form at all. As regards ***Sarla (supra)***, in this case, the concerned candidate had filled in wrong reservation category “BCB” instead of “EBPG” and the application was accompanied by a certificate of EBPG. Here, the candidate did upload the correct certificate before last date of application. The candidate was a poor widow lady working as anganwari worker who filled the application through computer centre. So far as the case of ***Yogender Kumar (supra)***, is concerned, in this case, the required certificates were not uploaded with the application form, however, the petitioner was interviewed, and thereafter, sent the certificates through email. One of the necessary certificates was issued well before the cut off date and the others, though obtained subsequent to the cut-off date, could have been obtained till the date of interview, as per a stipulated condition. And, the case of ***Rina (supra)***, was not where wrong category was filled. Rather, it relates to the dispute around selection of candidates who failed to produce requisite certificate for General OSP category on time and produced it thereafter.

It would be expedient to point out that this Court, in **Suman Khatri Vs. Haryana Public Service Commission and others** (LPA-380-2022, date of decision: 12.05.2022), dismissed the appeal, while referring to the observations made by the Supreme Court in **J & K Public Service Commission Vs. Israr Ahmad, 2005 (1) SCC 498** that once a candidate has chosen to opt for category to which he is entitled, he cannot later change the status and make a fresh claim. Further, in **Sweety Nagar Vs. State of**

Haryana and another (LPA-226-2020, date of decision: 23.08.2002), this Court dismissed the appeal, for the advertisement contained a clause cautioning the candidates that no change would be allowed after final submission.

In the wake of the above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

27.01.2023
AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: