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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4999-2024

Date of Decision:16.04.2024

GURDIT SINGH

..... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Karan Singla, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of order dated 06.12.2023 (Annexure P-12) whereby claim of petitioner for the appointment as Constable has been rejected on the ground that he is not academically qualified.
2. The petitioner since 1991 is working with respondent as Home Guard. In 2009, his case was recommended for absorption as Constable. The respondent despite recommendation did not grant constabulary number and he preferred Civil Writ Petition No.15278 of 2013 before this Court which was withdrawn with liberty to file afresh on the same cause of action with better particulars. He did not file fresh petition.
3. A Division Bench of this Court directed State Government to frame policy with respect to absorption of Home Guards. The respondent

in compliance of orders of this Court framed policy dated 22.05.2014 wherein it was categorically provided that candidate must fulfill eligibility conditions as laid down for the post of Constable and no relaxation in education qualification will be given.

4. The case of petitioner was not considered, thus, he preferred Civil Writ Petition No.14428 of 2023 before this Court seeking direction to respondents to consider his case for appointment as Constable. This Court vide order dated 24.08.2023 disposed of said petition with a direction to respondents to decide his representation.

5. The respondent in compliance of aforesaid order has passed impugned order dated 06.12.2023 (Annexure P-12) whereby claim of the petitioner has been declined on the ground that he possesses education qualification of 10th standard whereas minimum qualification for the post of Constable is 10+2.

6. Mr. Karan Singla, Advocate submits that petitioner has been discriminated. Similarly situated employees have been assigned constabulary number ignoring their education qualification. The case of the petitioner was considered in 2009 as well as 2018, however, he was not assigned constabulary number which is in the teeth of orders passed in the case of similarly situated employees.

7. Having heard argument of Mr. Karan Singla, Advocate, this Court finds that present petition is bereft of merit and deserves to be dismissed.

8. The respondent has rejected claim of the petitioner vide order dated 06.12.2023 (Annexure P-12). The relevant extracts of the order are reproduced as below:

“2. In compliance with the order dated 25-11-2013 of Hon'ble Punjab and Haryana High Court in LPA No. 1655 of 2013, the following guidelines/ Parameters have been framed for absorption/enrolment as constable from Punjab Home Guards to Punjab Police vide letter No.249-50/E-1 dated 22.05.2014 which are as under :-

1. Nobody from PHG will be taken in Punjab Police except through normal channel of general recruitment or in exceptional cases for act of bravery after the approval of the Government.

2. Only those exceptional cases would be sent to Govt. In which the candidate has applied within six months of the act of bravery.

3. His case should have been scrutinized & recommended by a committee of IGP/Hqrs., DIG/Admn & AIG/ Pers-1 with regard to his act of bravery and other eligibility conditions.

4. He fulfills the eligibility conditions as laid down for post of constable and other instructions of Govt. issued from time to time. No relaxation in education qualification will be given.

5. It will be applied prospectively and with no retrospective effect except for the purpose of PHG Harbans Singh the appellant in LPA.

3. The SSP, Moga has intimated that the Petitioner has passed Matriculation. As per latest recruitment rules in Punjab Police, minimum educational qualification for the post of Constable is 10+2 or its equivalent from a recognized Education Board/University. The petitioner PHG Gurdit Singh No. 23722 does not fulfill educational qualification for the post of Constable. As per instructions issued by DGP office vide order No. 249-50/E-1 dated 22.05.2014, it is clearly stated that no relaxation in education qualification will be given.

4. In compliance with the orders of the Hon'ble High

Court dated 24-08-2023 passed in CWP No.14428/2023, the case of the petitioner for his absorption in Punjab Police has been considered and is hereby rejected being devoid of merit.”

9. The petitioner is claiming post of Constable despite the fact that he is not possessing minimum education qualification i.e. 10+2. He claims that respondent has sympathetically considered case of others. From the perusal of policy dated 22.05.2014 framed by State Government, it is quite evident that no relaxation in education qualification can be granted. The petitioner is concededly 10th standard pass and minimum education qualification prescribed for the post of Constable is 10+2. This Court cannot ask State to act contrary to its policy which was framed pursuant to direction of this Court. It is apt to notice that the petitioner is not assailing terms and conditions of the said policy. If the State in a stray case has acted contrary to its policy, it does not create right in favour of the petitioner. There can never be negative equality.

10. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

16.04.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>