

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

243

CWP-7655-2022
Date of decision : 11.07.2024

Dinesh Kumar Petitioner

versus

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Nikhil Lathar, Advocate for
Mr. Anurag Goyal, Advocate
for the petitioner.

Mr. Amandeep Joshi, DAG, Haryana.

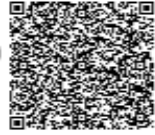
PANKAJ JAIN, J. (Oral)

1. Prayer is for issuance of a writ in the nature of certiorari quashing the impugned order dated 08.03.2022 (Annexure P-11), whereby the recommendation made by Haryana Staff Selection Commission for appointment of the petitioner as Cook in the respondent-department has been cancelled after he was found guilty of seeking entitlement to 05 marks for Socio Economic Criteria.
2. Haryana Staff Selection Commission issued public notice bearing advertisement No.4/2018 inviting applications for direct recruitment to Group D posts. The petitioner applied pursuant thereto and also claimed 05 marks under Socio Economic Criteria defined in the public notice as under:-

“2.3 Criteria for Selection, Examination & Syllabus.

The scheme of marks in respect of selection to Group D posts in the Service shall comprise of total 100 marks, as detailed

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below:

- i) Written Exam: 90 marks
- ii) Socio-Economic criteria and experience: 10 marks

The commission shall make selection & recommendation of the names of candidates to a department or an office on the basis of merit in written examination, experience and socio-economic criteria. The written examination shall be divided into two portion, comprising: -

- ii) 75% weightage for General Awareness, Reasoning, Maths, Science, English, Hindi as applicable.
- iii) 25% weightage for History, Current Affairs, Literature, Geography, Civics, Environment, Culture etc. of Haryana.

The marks for experience and some objective socio-economic criteria are to be allocated as follows:

a. If no person from among the applicant's father, mother, spouse, brothers and sons is, was or has been regular employee in any Department/ Board/ Corporation/ Company/ Statutory Body/ Commission/ Authority of Government of Haryana or any other State Government or Government of India. (5 marks)

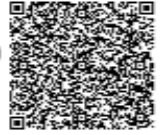
b. Orphan/Widow:

- i. If the applicant is Widow; or
- ii. If the applicant is the first or the second child and his father had died before attaining the age of 42 years, or
- iii. If the applicant is the first or the second child and his father had died before the applicant had attained the age of 15 years. (5 marks)

c. If the applicant belongs to such a denotified tribe (Vimukt Jatis and Tapriwas Jatis) or Nomadic tribe of Haryana which is neither a Scheduled Caste nor a Backward Class.”

3. After selection, the petitioner was recommended to be appointed as Cook with the respondent-department (Annexure P-8). On the basis of the recommendation made by Staff Selection Commission, the petitioner was issued appointment letter dated 29.07.2020 which

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reads as under:-

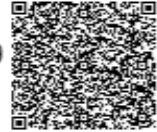
“ORDER

No. /CRC dated **(Appointment Order)** As per selection made by Haryana Staff Selection Commission vide his office memo. No HSSC/Confid./Recomm/2020/200 dated 20.06.2020 and conveyed by Director General of Police, Haryana vide his office Memo No. 1-472-78/E (11)-4 dated 02.07.2020 for the post of Group 'D' amongst the waiting list against advertisement No. 4/2018 Category No.-1. **Sh. Dinesh Kumar S/o Sh. Gajraj Singh, Caste Ahir, VPO Pahrajwas City Pehrajwas, Teh. Palhawas, District Rewari, Haryana** who has been declared medically fit by Civil Surgeon, Rohtak and whose character and antecedents have been found good, is hereby appointed Cook on purely temporary basis with immediate effect in Police Department (3rd IRB, Sunaria, Rohtak) in the pay scale of Denotes Level (DL) for Group D (Rs. 16900-53500) plus allowances as admissible from time to time, subject to final outcome of CWP No. 37683/2018 30376/2018, 23769/2018, 31085/2018, 32246/2018, 24327/2018, 26801/2018, 26478/2018, 37683/2018, 22969/2018 & 331/2019 e.t.c and any other writ petition pending in the lion'ble High Court and any other CWP pending in any other court of Law on the following condition.

2. That her/his appointment is against a purely temporary post on provisional basis which is liable to be abolished at any time and carries no promise of subsequent permanent employment. No offer of permanent vacancy can be made to you at present and in this respect he will have to take your chance like others who have been similarly recruited. Consequently your service may be terminated without notice when there is no vacancy against which you can be retained.

3. If, at any stage, you desire to resign your post in the police department. you will be required to give one month's clear notice or forfeit, in lieu thereof, your salary including allowance for one month's or for the period by which the notice falls short of one month. Such a notice will be given to you by this department also in case it is proposed to terminate your service for the reasons other than that mentioned in para-2 above. Government will also be liable to pay your salary

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including allowances for the one month or for the period by which the notice falls short of one month. In case of misconduct, however, you will be given a reasonable opportunity to show cause why your services should not be terminated in which case the condition of one month notice will not apply.

4. During the period of service, you will be governed by the Haryana State Class-IV Service Rules, 2000 as may be amended from time to time and also the Govt. instructions in this behalf.

5. It is also made clear to that you will not undertake higher studies of any kind without obtaining prior permission.

6. No T.A will be granted for joining the appointment.

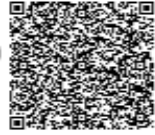
7. In case you are married, you should have only one living spouse and if you have more than one living spouse you should justify the circumstances for that.

8. This appointment is purely provisional before the socio economic criteria and this relaxation not confer any right to a candidate to remain in job, if subsequently anything adverse is reported against him/her at later stage.

9. If you are willing to accept this offer on the conditions mentioned above, you should report yourself for duty in the office of Commandant 3 IRB, Sunaria, Rohtak, but in no case later than. If you fail to join by that time, your name will be removed from the list of approved candidates unless you are able to furnish satisfactory explanation for not having joined in time.”

4. Later on, the information supplied by the petitioner to claim Socio Economic Criteria was found to be incorrect, which led to the passing of the impugned order rejecting the candidature of the petitioner and annulling his appointment. It is the aforesaid order which is under challenge.

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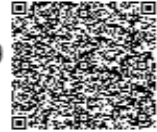


5. Written statement has been filed on behalf of the State. The stand of the State reads as under:-

“That the brief facts of the case are that the petitioner Sh. Dinesh Kumar, Cook, No. 13/C was appointed in 3rd IRB on 29.07.2020 in Group-D post vide Director General of Police, Haryana office memo No. 6432-78/E(II)-4 dated 02.07.2020 & Commandant 3rd IRB order No. 6507/CRC dated 29.07.2020 on provisional basis as per clarification issued by Chief Secretary to Govt., Haryana office No. 52/18/2018-3GSI dated 07.06.2020 and conveyed by Director General of Police, Haryana, Panchkula office No. 7658-7708/E (II)-4 dated 28.07.2020 with the subject to the condition as mentioned in this appointment Order at Sr. No. 08 that ***"This appointment is purely provisional basis before the socio economic criteria verification and this relaxation does not confer any right to candidate remain in job if subsequently anything adverse is reported against him/her at later stage."*** After his appointment in 3rd IRB, he submitted a Socio - Economic Affidavit in the office of respondent No.3 i.e Commandant 3rd, IRB, Sunaria, Rohtak and stated that no any member of his family in government service and he has taken the benefit of Socio- Economic Criteria as per govt. Haryana instructions. The Socio - Economic affidavit was sent to Superintendent of Police, Rewari for verification and as per verification report received from Superintendent of Police, Rewari vide his office memo No. 13316 dated 02.09.2020 that his elder brother has retired from Border Security Force and younger brother is serving in Indian Army.”

6. Learned counsel while assailing the impugned order submits that since the petitioner was residing separately from his brother as per the ration card (Annexure P-6), the claim of the petitioner ought not have been rejected on the ground that his brother was serving under Union of India.

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7. *Per contra*, counsel for the State however submits that the false averment made by the petitioner to enure benefit under Socio Economic Criteria wrongly is evident from the record. In view of the false averment made by the petitioner while applying for the post, no fault can be found with the action taken by the respondent-authority.

8. I have heard counsel for the parties and have carefully gone through the records of the case.

9. It is not disputed that the petitioner applied in terms of Annexure P-1 which clearly laid down the Socio Economic Criteria and the eligibility therefor. The precise covenant contained in the public notice did not classify with respect to bothers living together and brother living separately. Even in the appointment order dated 29.07.2020 (Annexure P-8), there was a specific condition for the appointment which read as under:-

“XX XX XX

8. This appointment is purely provisional before the socio economic criteria and this relaxation not confer any right to a candidate to remain in job, if subsequently anything adverse is reported against him/her at later stage.

9. If you are willing to accept this offer on the conditions mentioned above, you should report yourself for duty in the office of Commandant 3 IRB, Sunaria, Rohtak, but in no case later than. If you fail to join by that time, your name will be removed from the list of approved candidates unless you are able to furnish satisfactory explanation for not having joined in time.”

10. Thus, counsel for the petitioner cannot deny the fact that so far as the claim of the petitioner in the application form is concerned, the same was false and incorrect. Counsel has made another attempt to

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submit that the fault was bonafide.

11. Without going into the question whether the same was bonafide or not, this Court finds that no fault can be found with the action taken by the respondent-authorities.

12. In view of the fact that the information supplied by the petitioner in his application form was found to be incorrect.

13. Resultantly, there is no merit in the present writ petition and the same is hereby dismissed.

(PANKAJ JAIN)
JUDGE

11.07.2024

Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No