

2024.PHHC.149093



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.9399 of 2019 (O&M)

Date of Decision: 12.11.2024

Karishma

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Lalit Rishi, Mr. Aman Godara & Mr. Rohit Singh,
Advocates along with petitioner.

Mr. Kiran Pal Singh, AAG, Haryana for the respondents
assisted by Mr. Abhijeet Kulkarni, M.D.-cum-C.E.O., HKCL,
Mr. Abhishek Rai, Programme Manager, HKCL,
Ms. Sunita Arora, Company Secretary, HKCL,
Mr. Williampreet Singh, Assistant Manager, HKCL,
Mr. Kamal Kumar & Ms. Mehvish,
Assistant District Attorneys, HSSC.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed under Article 226 of the
Constitution with the following prayer:-

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- “(i) for quashing of the Physical Measurement Test (for short ‘PMT’) Report dated 20.02.2019 (P-4), vide which petitioner was declared unqualified illegally, arbitrarily and without adopting proper procedure for measurement of her height in the PMT for the Post of Female Constable (General Duty), Advertisement No.3/2018, Category No.2 dated 16.04.2018 (P-1), issued by respondent No.1;
- (ii) for issuance of directions to the official respondents to again conduct the PMT of the petitioner for the aforesaid post and
- (iii) for issuance of any other order or direction, which this Hon’ble Court may deem fit and proper under the peculiar facts and circumstances of the case.

(2) **BRIEF FACTS:**

(2.1) Haryana Staff Selection Commission (for short ‘Commission’), issued an Advertisement No.3/2018 dated 16.04.2018 (P-1) for recruitment of various posts in Police Department, Haryana, including 1147 posts of Female Constable (General Duty) (re-advertised).

For brevity, the break-up of aforesaid posts is recapitulated as under:-

“DETAILS OF POSTS & QUALIFICATIONS

POLICE DEPARTMENT, HARYANA

Cat. No.2 1147 Posts of Female Constable (General Duty) (Re-advertised)

(Gen=528, SC=206, BCA=161, BCB=92, ESM-GEN=80,

ESM-SC=23, ESM-BCA=23, ESM-BCB=34)”

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(2.2) Physical parameters as well as educational qualifications for all the posts were stipulated as under:-

“Educational Qualifications for Categories 1, 2 & 3 above:-

- i) *The candidate must have passed 10+2 or its equivalent from a recognized Education Board/Institution for all the categories.*
- ii) *Hindi/Sanskrit up to Matric standard or higher educations;*
- iii)

	<i>Height</i>	<i>Chest</i>
<i>Male</i>	<i>170 Centimeter General Category</i>	<i>83 Centimeter (un-expanded) to 87 Centimeter (expanded)</i>
	<i>168 Centimeter for eligible Reserve Categories as per latest existing Government Reservation Policy</i>	<i>81 Centimeter (un-expanded) to 85 Centimeter (expanded)</i>
<i>Female</i>	<i>158 Centimeter General Category</i>	<i>NIL</i>
	<i>156 Centimeter for eligible Reserve Categories as per latest Government Reservation Policy applicable at the time of Advertisement/Corrigendum as the case may be.</i>	<i>NIL</i>

- Note:-*** *Physical Measurement Test shall be of qualifying nature only.*
- Age:-*** *18-25 years (On the first day of the month in which the applications are invited for recruitment of Constable i.e. on 01.04.2018).*
- Note (i):-*** *For Ex-Servicemen – the break in service between the date of discharge and between the 1st day of the month (i.e. on 01.04.2018) in which enrolment process is started, shall not*

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exceed four years as per Rule 12.24 (1) I of Punjab Police Rules, 1934.

Note (ii):- For the candidates belonging to the Scheduled Castes, Backward Class Categories relaxation in upper age limit of 5 years shall be given as per Govt. Instruction issued from time to time.

Pay Scale: Rs.21700-69100.

Fee Details:

Sr. No.	Category of post	General			SC/BC candidates of Haryana State only	
		Male	Female Non Resident of Haryana	Female of Haryana resident only	Male	Female
1.	Cat. No. 1, 2 & 3	₹100/-		₹50/-	₹25/-	₹13/-
2.	Cat. No. 4 & 5	₹150/-		₹75/-	₹35/-	₹18/-
3.	Ex-Serviceman of Haryana	No Charges				

The dependent of ESM and DFF are required to pay the fee as for General, SC or BCA & BCB Candidates as the case may be. Fee once deposited against an application form is neither transferable nor refundable/adjustable. The fee should be deposited through Net banking or e-Challan in any branch of State Bank of India, Punjab National Bank and IDBI Bank etc. available on payment site. Candidates are advised to choose their mode of payment i.e. Net banking or e-Challan while applying online.

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Note 1. The posts indicated below were advertised earlier by the Haryana Staff Selection Commission and Haryana Police Recruitment Board, Panchkula:-

Sr. No.	Name of the Post	New Cat. No.	Old Advt. No.	Old Cat. No.
1.	Male Constable (General Duty)	1	1/2017	1
2.	Female Constable (General Duty)	2	1/2017	2
3.	Male Constable (General Duty)	1	5/2017	1
4.	Female Constable (General Duty)	2	5/2017	2
5.	India Reserve Battalions of Haryana State Male Constable	3	3/2013	
6.	Sub Inspector (Male)	4	8/2015	5

Against Advertisement No. 8/2015, Cat. No. 5, Advt. No. 1/2017, Cat. No. 1 & 2 and Advt. No. 5/2017, Cat. No. 1 & 2 no recruitment process could be initiated and the same were cancelled by the Haryana Staff Selection Commission, Panchkula vide Cancellation Notice dated 24.05.2017 & 06.04.2018. Against Advt. No. 3/2013 recruitment process was started by the Haryana Police Recruitment Board but could not be completed and all these were cancelled by the Haryana Staff Selection Commission, Panchkula vide Cancellation Notice dated 15.7.2015. The candidates who had qualified for interview against the advertisement No. 3/2013 will also be eligible to apply against the re-advertised posts. The Govt. has decided to give one time relaxation in fee and age to the candidates who had qualified for interview against the Advertisement No. 3/2013 issued by Haryana Police Recruitment Board in the earlier recruitment process and may have now crossed the maximum prescribed age limit to enabling them to participate in the proposed recruitment process. Such candidates will be exempted from the payment of application fee and age who had applied against Advt. No. 8/2015, Cat. No. 5, Advt. No. 1/2017, Cat. No. 1 & 2, Advt. No. 5/2017 Cat. No. 1 & 2 and Advt. No. 3/2013. However, such candidates will have to apply afresh in the revised application form alongwith proof of depositing the application fee. The candidates of EBPB Category who had earlier applied against EBPB Category will also be eligible against General Category (Re-Advertised post) & such candidates shall have to pay the balance fee. However, such candidates will also have to apply afresh alongwith proof of depositing the application fee. They are required to upload the e-Challan alongwith the

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fresh application form and will produce both the original e-Challan at the time of test/verification.

(2.3) In pursuance of the Advertisement No.3/2018, petitioner applied for the post of Female Constable (General Duty) being Dependent of Ex-Serviceman-Scheduled Castes (ESM-SC), giving Unique ID No.401981 of her earlier application submitted in response to Advertisement No.1/2017.

(2.4) She was issued a Roll No.3182121220 (P-3) by the Commission for appearing in the written examination (Knowledge Test) for the post in question. The examination was conducted on 30.12.2018; result thereof was declared on 07.02.2019 and she duly qualified the Knowledge Test under ESM-SC Category.

(2.5) After declaration of the above result, qualified candidates were called for Physical Screening Test (PST), which was held from 17.02.2019 to 18.02.2019. Also noteworthy that successful candidates were asked to download the Admit Card w.e.f. 14.02.2019 for PST from website of the Commission i.e. www.hssc.gov.in. After downloading the Admit Card; petitioner appeared for PST on 18.02.2019 and she duly qualified the same.

(2.6) Thereafter, third step for selection i.e. Physical Measurement Test (PMT) was conducted by the Commission on 20.02.2019; but petitioner was declared as disqualified vide report dated 20.02.2019 (P-4) for the reason that her height was short, being 154.3 cms., against the required height of 156 cms. under ESM-SC Category.

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(2.7) Aggrieved against aforesaid action of the Commission, on 21.02.2019, in the morning, petitioner got her height measured from Civil Hospital, Sector 6, Panchkula; where Senior Medical Officer found her height as 162 cms. vide Out-Patient Department Card dated 21.02.2019.

(2.8) Thereafter, on the same very day, petitioner got her height measured from Alchemist Hospital, Sector 21, Panchkula, and where it was certified as 161 cms. vide Out-Patient Record dated 21.02.2019.

(2.9) Despite aforesaid two reports, respondent(s) did not consider the candidature of petitioner for the post in question.

(2.10) Left with no alternative, she filed Civil Writ Petition No.5444 of 2019, which was disposed off by the then Coordinate Bench vide order dated 28.02.2019 with the direction to approach the Commission within a period of one week and respondent(s) were directed to show her videography of the PMT.

(2.11) In compliance of the aforesaid order, petitioner visited the Commission and upon viewing the Videography of PMT, it was quite visible that her height had not been properly measured by the respondent(s). As a result thereof, petitioner again raised her grievance before the Commission; but there was no response. Hence present writ petition.

(3) CONTENTIONS ON BEHALF OF THE PETITIONER:-

(3.1) It is contended by learned Counsel for the petitioner that on earlier occasion, she applied for the post of Female Constable (General Duty) under

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ESM-SC Category in response to an Advertisement No.1/2017 dated 28.01.2017; but recruitment process was cancelled midway by the Commission vide Public Notice dated 24.05.2017.

(3.2) Further contended that Coordinate Bench vide order dated 25.05.2022 directed the petitioner to present herself before the Government Medical College and Hospital, Sector 32, Chandigarh (*GMCH*) for measurement of her height. In compliance of the aforesaid order, she duly appeared before the Medical Board of GMCH and her height was found to be 156.2 cms. vide report dated 30.05.2022.

(3.3) Again contended that on 10.09.2024, learned State Counsel apprised the Court that case of petitioner will be considered in accordance with law within a period of two weeks. But now, respondent(s) have rejected her claim while raising altogether a new plea that she is overage for the post in question and further alleged that petitioner has failed to produce her Application Form submitted in response to Advertisement No.01/2017 for claiming the exemption of age bar.

(3.4) Further contended that petitioner belongs to a very poor family; divorced by her husband; maintaining two minor children and has to undertake daily-wages work to make her both ends meet, but she is being harassed by the Commission for the last six years without any valid reason.

(3.5) Lastly contended that action of the respondents while denying her lawful claim is wholly illegal, arbitrary, against the principles of natural justice

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and violative of Articles 14 & 16 of the Constitution of India; hence, liable to be quashed and set aside.

(4) CONTENTIONS ON BEHALF OF THE RESPONDENTS:-

(4.1) Learned State Counsel, who is usually fair while defending the State action, has vehemently opposed the prayer of petitioner on the premise that although her height is found to be 156.2 cms. by the Medical Board of GMCH; but she is ineligible for the post in question being overage.

(4.2) Further submits that as per Advertisement No.3/2018, a candidate for the post in question should be between 18 to 25 years of age on the cut-off date and as per Note (ii) of the said Advertisement, 5 years age relaxation is admissible to the Scheduled Castes candidate(s). Still further submits that as per her Application Form (P-2), the date of birth is mentioned as 04.03.1987; the cut-off date for reckoning the age was fixed as 01.04.2018 and by that day, she had attained the age of 31 years and 28 days.

(4.3) Also submits that although there was no age bar for the candidate(s) who applied for the post of Constable in response to earlier Advertisement No.1/2017, but petitioner has failed to produce any evidence that she applied in response to the earlier Advertisement i.e. 01/2017.

(4.4) Again submits that at best, the petitioner could be granted age relaxation of maximum of 5 years, being a Scheduled Castes candidate; but

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even then, she has become overage by the cut-off date; hence, her candidature has rightly been rejected by the Commission.

(4.5) Yet again submits that Unique ID No.401981, mentioned by the petitioner in her application form, was properly scrutinized by the Nodal Agency i.e. Haryana Knowledge Corporation Limited (*HKCL*); but the same is found to be of some “other candidate”, namely, Karishma d/o Ram Singh & Kamlesh, r/o Post office Mastapur, City Thana Dipalpur, Tehsil & District Rewari, under BCA Category, relating to Advertisement No.5/2017. To support his stand, learned State Counsel has referred to an Application Form (Mark ‘X’) of said Karishma (“other candidate”).

(4.6) Lastly submits that as per affidavit dated 29.07.2022 of Sh. Sanjay Kumar, Inspector General of Police, Administration, Police Headquarters, Sector 6, Panchkula, no post of Female Constable (General Duty) is available; thus, on that count also, writ petition is liable to be dismissed.

(5) Heard learned Counsel for the parties and perused the records with assistance of officials from the Commission as well as *HKCL*.

(6) **FINDINGS AND OBSERVATIONS;**

(6.1) It is not in dispute that petitioner applied “online” for the post of Female Constable (General Duty) in response to Advertisement No.3/2018 (re-

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advertised) under ESM-SC Category and she was issued Roll No.3182121220 for appearing in the written examination (Knowledge Test).

(6.2) Also not in dispute that petitioner qualified the Knowledge Test, held by the Commission on 30.12.2018. Upon declaration of the result of Knowledge Test on 07.02.2019, petitioner was called for PST, which was held from 17.02.2019 to 18.02.2019.

(6.3) After qualifying PST, petitioner appeared for third stage i.e. PMT, wherein she was declared disqualified in view of the report dated 20.02.2019 (P-4) for the reason that her height was 154.3 cms. against the minimum requirement of 156 cms.

(6.4) Paper-book reveals that on the very next day i.e. 21.02.2019, initially, petitioner got her height measured from Civil Hospital, Sector 6, Panchkula, where Doctor certified her height as 162 cms.

(6.5) For safer side on 21.02.2019 itself, petitioner got her height measured from another Hospital also i.e. Alchemist Hospital, Sector 21, Panchkula and Doctor certified her height as 161 cms.

(6.6) In view of above two reports, petitioner requested the Commission to consider her claim for the post in question; but there was no response.

(6.7) Left with no option, petitioner filed Civil Writ Petition No.5444 of 2019, which was disposed off by the then Coordinate Bench vide order dated 28.02.2019 with the direction that petitioner shall be shown videography of her PMT and for reference, the order reads as under:-

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“Pursuant to advertisement dated 16.04.2018, the petitioner participated for the post of Female Constable (General Duty) under ESM SC Category. The petitioner qualified the written examination and was called for Physical Screening Test, vide result dated 07.02.2019. The petitioner falls under ESM SC category where 156 centimeter height is required to fulfill the condition of Physical Measurement Test. The petitioner was declared unsuccessful in the Physical Measurement Test as she obtained 154.3 centimeter height.

The grievance of the petitioner is that she went to Alchemist Hospital, Sector 21, Panchkula and Civil Hospital to get her height measured and her height has been measured at 161 cm and 162 cm respectively, as per Annexure P-5 and p-6.

Issue notice of motion.

On asking of the Court, Mr. Kiran Pal Singh, AAG, Haryana accepts notice on behalf of the State. Learned counsel for the petitioner shall supply copy of the petition to learned State counsel by today itself.

In view of the above factual position, the present petition stands disposed of with a direction to the petitioner that she has approach office of the Commission within a period of one week from today and she shall be shown videography of her Physical Measurement Test.

Disposed of.”

(6.8) In pursuance of the aforesaid order, petitioner visited the Commission and upon viewing the videography, it was quite visible that her height had not been properly measured by the officials concerned. As a result

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thereof, she again raised grievance before the Commission, but to no avail and forced her to file present second writ petition.

(6.9) On 25.05.2022, the then Coordinate Bench directed for re-measurement of petitioner's height by the GMCH subject to deposit of ₹ 25,000/- while observing as under:-

“The petitioner herein would assail her height measurement as conducted by the Haryana Staff Selection Commission.

It is contended that the petitioner had applied for the post of Female Constable under the reserve category of Scheduled Caste-Dependant of Ex-Serviceman, pursuant to the advertisement No.3/2018, Cat. No.2, dated 16.04.2018. She qualified the written test held on 30.12.2018 and thereafter, she was called for physical screening test. She was declared disqualified in the physical measurement test, as she obtained 154.3 cms height whereas 156 cms height was required under the reserve category of ESM SC. Feeling aggrieved, she got her height re-measured from Alchemist Hospital, Panchkula and thereafter from Civil Hospital, Panchkula, which measured her height as 161 cms and 162 cms respectively.

Counsel for the petitioner submits that height of the petitioner can be got re-measured by any Government Hospital in order to establish whether the height of the petitioner has correctly been measured by the Commission. He further submits that he has the instructions that the petitioner is ready to pay Rs.25,000/- in case her height on re-measurement is found to be as per the measurement already done by the Commission.

Accordingly, the petitioner herein is directed to deposit a sum of Rs.25,000/- with the Registrar of this Court by tomorrow and on such deposit, the petitioner will present herself before the

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Government Medical College and Hospital, Sector 32, Chandigarh, on 27.05.2022, where a Board of Doctors will be constituted to measure the height of the petitioner.

Mr. Anil Mehta, Senior Standing Counsel for UT, Chandigarh along with Mr. Nishant Indal, Advocate, has been asked to join the proceedings of this case. He is requested to inform the authorities at GMCH, Sector 32, Chandigarh to constitute a Board of Doctors and measure the height of the petitioner on 27.05.2022 by stadiometer as has been directed in the case of Sonu Singh Versus State of Haryana and others, CWP No.23875 of 2016, decided on 21.11.2016 and submit the report in a sealed cover to this Court on the next date of hearing.

It is clarified that the deposit of Rs.25,000/- by the petitioner shall be subject to the condition that in case the height of the petitioner is found to be as per claim of the petitioner, the amount will be refunded back to the petitioner and in case of a different result, the same shall be remitted to the Poor Patients Welfare Fund in GMCH, Sector 32, Chandigarh.

For awaiting report, list on 01-06-2022.”

(6.10) In compliance of the aforesaid order, petitioner appeared before the Medical Board of GMCH; where her height was certified to be 156.2 cms. But despite that, the claim of petitioner was not accepted; rather she is being harassed continuously by the Commission on one pretext or the other.

(6.11) After hearing the parties for some time, on 23.08.2024, this Court observed that, *prima facie*, petitioner is duly qualified for the post in question and faced with the above predicament, learned State Counsel sought time to have instructions in the matter.

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(6.12) Yet again, on 10.09.2024, an adjournment was sought by learned State Counsel for consideration of the case of petitioner in accordance with law; but no decision was taken by the Commission.

(6.13) Then again on 26.09.2024, learned State Counsel sought time for consideration of the case of petitioner.

(6.14) Unfortunately, instead of redressing her grievance, now at this stage, the Commission has come up altogether with a new plea that on the cut-off date, petitioner was overage for the post in question. The Commission has also produced copy of an Email dated 14.10.2024 (Mark 'Z'), received from HKCL, to the effect that the Unique ID No.401981, disclosed by the petitioner while filing her Application Form against Advertisement No.3/2018 for the post in question, belongs to some "other candidate" i.e. Karishma d/o Ram Singh & Kamlesh, r/o Post office Mastapur, City Thana Dipalpur, Tehsil & District Rewari, under BCA Category against Advertisement No.5/2017.

(6.15) In view of the above stand taken by the Commission, HKCL was ordered to be impleaded as party respondent No.5 vide order dated 16.10.2024 and they were directed to produce the original records of petitioner. As per stand of the HKCL also, the Unique ID No.401981 does not belong to petitioner; rather it pertains to some "other candidate".

(6.16) In other words, it is the stand taken by the Commission as well as HKCL that petitioner never applied for the post of Female Constable (General

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Duty) in response to the Advertisement No.1/2017; therefore, she has not been exempted from the rigors of age bar for the post in question.

(6.17) It is not in dispute that petitioner was born on 04.03.1987, the cut-off date for reckoning the age was fixed as 01.04.2018; thus, according to the respondents, on the cut-off date, she had attained the age of 31 years and 28 days; hence, her case has been rejected on that count.

(6.18) However, in the opinion of this Court, the stand taken by respondents is wholly illegal, arbitrary and discriminatory; thus, unacceptable for the following reasons:-

(i) Initially, candidature of petitioner was rejected by the Commission on the ground that she is not fulfilling the criteria of height i.e. 156 cms.;

According to Advertisement No.3/2018, the minimum height for Scheduled Castes female candidate was required as 156 cms.; whereas as per the measurement conducted by the officials of Commission, her height was found to be 154.3 cms.

It has come on record from three different sources that petitioner is having height over and above the minimum requirement of 156 cms. and which are as under:-

Civil Hospital, Panchkula : 162 cms.

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Alchemist Hospital : 161 cms.
GMCH, Sector 32, Chandigarh : 156.2 cms.;

(ii) It is also evident from original Application Form of the petitioner that she disclosed her Unique ID No.401981 regarding the previous application, submitted in response to an Advertisement No.1/2017.

(iii) The respondents never raised any objection to the effect that Unique ID No.401981 does not belong to petitioner; rather she was issued Roll No.3182121220 and cleared her Knowledge Test as well as PST under the same very Roll Number.

(iv) Even while conducting the PMT, there was no objection that petitioner was overage or that she did not apply in terms of Advertisement No.1/2017 or that her Unique ID Number is not matching.

(v) Now, respondents are trying to dislodge her claim on flimsy ground that Unique ID No.401981 belongs to some “other candidate” and the Application Form (Mark ‘X’) of that “other candidate” produced by the respondents reads as under:-

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10/11/2024, 5:02 PM

Haryana Staff Selection Commission, Government of Haryana

हरियाणा कर्मचारी चयन आयोग

Haryana Staff Selection Commission

Version No. : 1.0

English ID : 550445871

अवेदक का पूरा नाम/ Applicant's Name

KARISHMA

पिता का नाम/ Father's Name

RAM SINGH

माता का नाम/ Mother's Name

KAMLESH

लिंग/ Gender

Female

जन्म तिथि/ Date of Birth: 05/01/1998

वैवाहिक स्थिति/ Marital Status

UnMarried

राष्ट्रियता/ Nationality: Indian

धर्म/ Religion: Hindu

क्षेत्र/ Area: Rural

आधार नंबर/ Aadhar No:272217583150

शरीर पर दृश्यमान चिह्न/ निशान/ Visible Identity Mark On Body:

A BURN MARK ON RIGHT HAND

== Applied Post ==

S.N.	Adv. No.	Post Name	Payment Status	Post Application Id
1-	5/2017	Female Constable (General Duty)	Paid	1395324

ज्योहार का पता और संपर्क विवरण/ Correspondence Address & Contact Details

POST OFFICE - MASTAPUR
City: THANA DIPALPUR, Tehsil: REWARI, Dist: Rewari, Pin: 123401
State: Haryana, Mobile/Phone- 8708133735,

ii) आरक्षण/ Reservation

श्रेणी/ Category : SC(A) Certificate No. R9R/BC/26133113; Issuing Authority: TEHSIL DAB; Date Of Issue: 02/06/2013

कास्ट/ Caste: KUMHAR

पार्श्विक रूप से विकलांग/ Physically Handicapped: None

आरक्षण/ Reservation : None

श्रेष्ठ विवरण/ Speech Type Details : None

क्या आप हरियाणा राज्य के निवासी हैं?/ Are you a Resident of Haryana state: Yes

क्या आपको मेट्रिक कक्षा तक हिंदी या संस्कृत का ज्ञान है?/ Do you have Knowledge of Hindi/Sanskrit upto Metric Standard?: Yes

दस्तावेजी प्रमाण पत्र :/ Whether passed NCC Certificate?: No

iii) अन्य आवश्यक विवरण/ Other Essential Details

Did you apply previously for the advertisement? : No

Height (In Centimeter) : 160.00

iv) शैक्षिक योग्यता विवरण/ Qualifying Examinations

विश्व/ Education	विश्वविद्यालय/बोर्ड का नाम/ University/ Board Name	परीक्षा देने का दिन, महीना एवं साल/ Passing Day, Month & Year	प्राप्त हुए अंक/ Marks Obtained	अधिकतम अंक/ Total Marks	प्रतिशत/ Percentage
Class 12th (Mandatory)- Class 10th (General)	Haryana Board of Education	5 June 2014	464.00	600	60.67
12th/10+2- 12th/10+2 (Commerce)	Haryana Board of Education	18 May 2016	378.00	500	75.60

Printed on: 21/10/2024, 5:03 PM

Certified True Copy

From perusal of the aforesaid extract, it is nowhere discernible that Unique ID No.401981 pertains to some “other candidate”; rather so-called “other candidate”, namely, Karishma d/o Ram Singh & Kamlesh, belongs to

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BCA Category; she is resident of **Post office Mastapur, City Thana Dipalpur, Tehsil & District Rewari;** whereas petitioner belongs to ESM-SC Category and she is resident of VPO Chhuchhak was, Tehsil Matanhail, District Jhajjar.

(vi) Apart that, the alleged “other candidate” applied in response to Advertisement No.5/2017; whereas petitioner is claiming that she applied in response to an Advertisement No.1/2017.

(vii) Even from perusal of the information (Mark ‘X’), supplied by the HKCL, it is nowhere discernible that “other candidate” was assigned Unique ID No.401981 or that she applied in response to the Advertisement No.1/2017.

(6.19) *A fortiori*, in the present case, petitioner has cleared all three steps i.e. Knowledge Test, PST & PMT for selection to the post in question; but now at this belated stage, the Commission has rejected her candidature on the premise that she was overage on the cut-off date i.e. 01.04.2018, which in the opinion of this Court is wholly illegal.

(6.20) Additionally, there is a power for relaxation, including age limit, vested with the Government under Rule 18 of the Haryana Police (Non Gazettted and Other Ranks) Service Rules, 2017 and which reads as under:-

“ Where the Government is of the opinion that it is necessary or expedient to do so, it may, by order, for reasons to be

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*recorded in writing, relax any of the provisions of these rules
with respect to any class or category of persons”*

In view of the above relaxation clause, the Commission, even in the worst scenario, instead of rejecting the claim of petitioner on account of being overage, ought to have referred the matter for consideration of the Government being the competent authority; but it seems that Commission is bent upon to victimize the petitioner by hook or crook and/or made it as a prestige issue, to dislodge her claim by all means.

(6.21) Keeping in view the facts and circumstances, discussed hereinabove, the irresistible conclusion would be that respondent-Commission has rejected the lawful claim of petitioner without any justification and determined to harass the poor lady, who belongs to ESM-SC Category. The petitioner, at her own, is maintaining two minor children and fighting for the last six years. Hence, there is no hesitation to observe that objection raised by the Commission is totally frivolous and indefensible in law; hence, deserves to be deprecated in strongest words.

(6.22) Consequently, writ petition is allowed; impugned PMT Report dated 20.02.2019 (P-4) is quashed. Respondent(s) are directed to treat the petitioner fully eligible and duly qualified for the post in question under ESM-SC Category as per her merit in response to the Advertisement No.3/2018 and to proceed as per law, without any further delay.

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(6.23) Since action of the respondent(s) is found to be wholly illegal and petitioner is being dragged in the avoidable litigation for the last six years; therefore, in order to ameliorate her miseries, the Commission is burdened with exemplary costs of ₹ 3 Lakh, which shall be paid to the petitioner.

(6.24) The aforesaid directions be complied with by the Commission within a period of three (03) months from the date of receipt of certified copy of this order.

Pending application(s), if any, shall also stand disposed off.

12th November, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes