

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(223)

CWP No. 23842 of 2018
Date of Decision : 01.04.2024

Hardeep Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Bikramjit Singh Patwalia, Advocate with
Mr. Abhishek Masih, Advocate and
Mr. Akshit Pathania, Advocate for the petitioner.

Mr. Sandeep Singh Mann, Addl. Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the selection, which has been made to the post of Forest Guard in pursuance to the Advertisement dated 06.03.2013 (Annexure P-1).
2. Learned counsel for the petitioner submits that the respondents had issued an Advertisement dated 06.03.2013 (Annexure P-1) for making appointment to the post of Forest Guard. As per the said Advertisement, 13 posts were reserved for the Outstanding Sports Person out of the total 471 advertised posts. The petitioner competed for the said post against the post reserved for Outstanding Sports Person as the petitioner already had gradation certificate, grading him as B-2 Category Sports Person.

3. While making the appointment for the post in question, the respondents selected 13 candidates in the category of Outstanding Sports Person on the basis of the sports gradation certificate by ignoring the marks secured by a candidate in the written examination.

4. Aggrieved against the said criteria, one Ranbir Singh filed a Writ Petition being CWP No. 25157 of 2014, which came to be decided by the Coordinate Bench on 10.07.2014, wherein, the Coordinate Bench held that ignoring the marks secured by a candidate in the written examination while making appointment is not in consonance with the Haryana Sports Policy read with the terms and conditions of the Advertisement hence, the candidates cannot be given appointment only on the basis of the sports gradation certificate issued to them. A direction was also issued that Ranbir Singh, who had secured 96.33 marks be given appointment as per his merit in the written examination.

5. The respondent-State complied with the said order and Ranbir Singh, who was graded as C-1 Sports Person, was given appointment in the reserved category of Outstanding Sports Person.

6. Learned counsel for the petitioner argues that once the petitioner, who is not only having more marks in the written examination than Ranbir Singh but also possess higher degree of Sports Gradation Certificate, he is entitled for preference on the same analogy to be granted appointment as a Forest Guard.

7. Learned State counsel submits that once the petitioner never agitated his claim after not being considered for the post in question with

regard to the criteria followed by the Government of Haryana of giving appointment only on the basis of the gradation certificate then after the judgment in ***Ranbir Singh (supra)***, the petitioner cannot approach this Court and agitate his claim for appointment to the post in question hence, the said claim is liable to be rejected.

8. Further, the contention that the petitioner has more marks in the written examination as compared to Ranbir Singh and is having higher gradation certificate as compared to Ranbir Singh, has not been denied by the learned State counsel.

9. I have heard learned counsel for the parties and have gone through the record with their able assistance.

10. The judgment of the Coordinate Bench in ***Ranbir Singh (supra)***, has been accepted by the respondent-State and had also been implemented. As per the judgment in ***Ranbir Singh (supra)***, the candidate having more marks in the written examination is to be given preference over the higher sports gradation certificate. That being the settled proposition of law, the petitioner, who has secured 99.67 marks, which is more than any of the selected candidate in the category of the Outstanding Sports Person, the petitioner is entitled for the grant of benefit of appointment on the same analogy as in ***Ranbir Singh (supra)***.

11. Learned counsel for the respondents has not been able to point out any differentiating facts between the case of the petitioner and Ranbir Singh, who has already been given appointment on the basis of marks secured by him in the written examination. The claim of the

petitioner is on better footing than Ranbir Singh for the reason that the petitioner is not only having more marks in the written examination than Ranbir Singh but also possess a higher gradation certificate of B-2 as compared to C-1 possessed by Ranbir Singh. That being so, the claim of the petitioner for the grant of appointment to the post in question is made out.

12. Now, the question which arises is, as to how to appoint the petitioner when all the posts in the reserved category of Sports Person have already been filled up. Learned counsel for the petitioner submits that under the Right to Information Act, the vacancy position for the post of Forest Guard has been obtained from the respondent-State, which is as under :-

FOR POST OF FOREST GUARD

Sr. No.	District	Vacant
1.	Kaithal	44
2.	Kurukshetra	37
3.	Jhajjar	36
4.	Gurugram	45
5.	Rewari	48
6.	Faridabad	49
7.	Sirsa	34
8.	Hisar	44
9.	Nuh	41
10.	Rohtak	42

11.	Jind	41
12.	Yamuna Nagar	71
13.	Bhiwani	53
14.	Panipat	42
15.	Pinjore	66
16.	Sonipat	35
17.	Karnal	35

13. Once, the posts of Forest Guard are lying vacant and the petitioner can be accommodated against those vacant posts and that too without disturbing the other selected candidates, the respondents are directed to appoint the petitioner on one of the vacant post of the Forest Guard, which is available as of now.

14. The next question which arise is as to how the petitioner should be adjusted keeping in view the fact that after the selection in pursuance to the Advertisement dated 06.03.2013 (Annexure P-1), the post of Forest Guard has again been filled more than once by the respondent-State.

15. Learned counsel for the petitioner submits that as the petitioner is also present in Court and he has instructions from the petitioner to submit that in case, the petitioner is granted notional appointment from the date Ranbir Singh has been granted appointment, the petitioner will not claim arrears of salary upto the date of appointment. Learned counsel for the petitioner further submits that as per the instructions received from the petitioner, he will have no objection

in case, the petitioner is fixed in seniority below Jagminder Singh, who was the last candidate selected in pursuance to Advertisement dated 06.03.2013 (Annexure P-1).

16. Keeping in view the above, the present petition is allowed. The respondents are directed to appoint the petitioner as Forest Guard notionally with effect from the date Ranbir Singh was granted the said benefit of appointment. Pay of the petitioner will be fixed by taking into account the date of appointment of Ranbir Singh but no arrears be paid to the petitioner upto the date of his appointment as undertaken by the learned counsel for the petitioner, after seeking due instructions from the petitioner that he will have no objection in case, his seniority is also fixed below Jagminder Singh, who was the last selected candidate in the category of Outstanding Sports Person appointed in pursuance to Advertisement dated 06.03.2013 (Annexure P-1).

17. Let this order be complied with within a period of eight weeks from the date of receipt of certified copy of this order.

18. Petition is allowed in above terms.

April 1st, 2024
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No