

2024:PHHC:072140-DB



Neutral Citation No

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(108)

LPA-1678-2023 (O&M)
Decided on : 21.05.2024

Sandeep Kumar

.....Appellant(s)

Versus

State of Haryana & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present: Mr.Ajay Gupta, Advocate, for the appellant(s).

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-4264-LPA-2023

1. Application for condoning the delay of 407 days in refiling the present appeal is allowed, in view of the averments made in the application duly supported by affidavit of the appellant. Delay of 407 days in refiling the appeal is hereby condoned.

2. CM stands disposed of.

LPA-1678-2023

3. Consideration in the present appeal is to the judgment dated 09.08.2022 passed by the Learned Single Judge in CWP-21380-2016 which is the third round of litigation.

4. The Learned Single Judge held that the appellant was declared disqualified in the Physical Efficiency Test for the post of Constable and therefore, could not make the cut. As per Annexure R-3 annexed with the written statement, the appellant had obtained 13 marks out of 20 marks and candidates having more merit than the appellant had been selected. It was in such circumstances, the Learned Single Judge had dismissed the writ petition.

5. Prayer made in the writ petition was for quashing the action of the respondents vide which they had declared the appellant as failed in the Physical Efficiency Test and for directing the respondents to appoint the appellant as Constable in pursuance to the selection held vide advertisement dated 21.07.2008. The appellant had earlier filed CWP-17709-2013 which was disposed of and direction was issued on 14.08.2013 to conduct the Physical Efficiency Test afresh of the appellant along with other candidates and those who remained successful, they may be interviewed. In case the candidates were to come within the zone of consideration, they were to be offered appointment in accordance with the merit position. In pursuance of the said directions, the Physical Efficiency Test of the appellant was scheduled for 18.09.2013 which was communicated to the him on 14.09.2013 (Annexure P-7).

6. As he was not communicated the result, he filed CWP-10995-2016 in which the stand was that the appellant had not made the cut and out of the 6 persons recalled, 4 candidates had been disqualified and 2 candidates, namely, Jagmal and Kuldeep had qualified. It was the case of the State that the candidates were informed on the same day about the result through notice board and announcements. Apparently, thereafter, the third writ petition was filed wherein the appellant himself had pleaded that the test was videographed.

7. In such circumstances, the Learned Single Judge apparently relied upon the stand of the State as per the written statement to record that the appellant did not make the cut having got 13 marks out of 20 marks and candidates having more marks had been selected. The said factual matrix having not been controverted in any manner, we do not find any plausible reason as to how this Court can interfere with the above-said findings of the Learned Single Judge. Resultantly, finding no merit in the present appeal, the same is hereby dismissed in limine.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

21.05.2024
Sailesh

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No