

**CWP-18380-2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH************CWP-18380-2024****Date of Decision: 12.08.2025**

Hitesh

...Petitioner

Vs.

State of Haryana and Ors.

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Mandeep Singh Lamba, Advocate
for the petitioner

Ms. Rajni Gupta, Additional Advocate General, Haryana

*********JAGMOHAN BANSAL, J. (ORAL)**

1. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking setting aside of notices dated 14.07.2024 and 15.07.2024 (Annexures P-6 and P-7) whereby he was shortlisted in General Category instead of Reserved Category (DESM).

2. The petitioner vide application dated 31.10.2022 under Dependents of Ex-serviceman (in short 'DESM') Category applied for Common Eligibility Test (Stage 1) (in short 'CET') for Group C & D category. The exam was conducted on 05.11.2022 and it was a qualifying exam. The petitioner was declared qualified for main exam to be conducted by Haryana Staff Selection Commission (in short 'HSSC'). The respondent-HSSC vide advertisement No.01-2024 dated 21.03.2024

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invited applications for the post of Male Constable (GD). In view of the directions dated 31.05.2025 issued by this Court in LPA 1037/2023, the respondent issued fresh advertisement No.01/2024 dated 28.06.2024. The respondent published notice for PMT. In the said notice dated 14.07.2024, the petitioner was shortlisted under General Category instead of DESM Category. He raised his grievance regarding shortlisting under General Category. The respondent vide notice dated 15.07.2024 ordered to consider him under General Category instead of DESM Category.

3. This Court on 05.08.2024 passed the following order:-

“It appears, prima facie, that Eligibility Certificate dated 15.01.2021 (P-8) of the petitioner for claiming reservation as Dependent of an Ex-Serviceman (DESM) was renewed by the competent authority i.e. Welfare Officer, District Sainik & Ardh Sainik Welfare Office, Charkhi Dadri (page 251 of the paper-book) and that is valid from 15.01.2024 till 14.01.2025.

Notice of motion.

On asking of the Court, Mr. Kiran Pal Singh, learned AAG, Haryana accepts notice on behalf of the respondent(s) and seeks time to have instructions and/or file written response in the matter.

Posted for 22.08.2024.

In the meanwhile, petitioner be permitted to join the selection process for the post(s) of Male Constable (General Duty) in pursuance to the Advertisement No.6/2024 dated 28.06.2024 (P-5) under DESM category, on provisional basis.

Needless to say that above arrangement shall not confer any equitable right in favour of the petitioner; rather the same would be subject to final outcome of present writ petition.

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Result of the petitioner be not published till further orders passed by this Court to that effect.”

4. Pursuant to aforesaid order, the petitioner participated in the selection process under DESM Category. He came to be selected. The competent authority issued appointment letter dated 06.11.2024 to him. The petitioner was already working with Indian Army, thus, he was supposed to resign and get the approval from the competent authority. He submitted resignation which as per petitioner stands accepted.

5. Learned counsel for the petitioner submits that petitioner had applied under DESM Category. He appeared in CET under DESM Category. His result was declared under said category. However, the respondent at final stage denied his category on the ground “DESM Certificate before cutoff date i.e. 01.02.2023”. The petitioner had uploaded eligibility certificate at the time of filing application for CET. The certificate was issued on 15.01.2021 and it was valid for one year. The said certificate was renewed by competent authority from time to time. The competent authority did not issue certificate on yearly basis, whereas, certificate dated 15.01.2021 was renewed from time to time.

6. *Per contra*, learned State counsel submits that the petitioner submitted first page of DESM certificate. He did not upload second page of the certificate and this fact came in the knowledge of Recruitment Board at the time of scrutiny of documents. There was no occasion to consider petitioner under General Category prior to scrutiny of documents. There was lapse on the part of petitioner. As per terms and conditions of the

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advertisement, he was bound to upload both pages of his certificate. He could not claim benefit on the basis of first page of the certificate. The certificate was issued on 15.01.2021 and it was valid till 14.01.2022, whereas, application for CET was filed on 31.10.2022. The petitioner by said date was not having valid certificate, thus, he was considered under General Category.

7. I have heard learned counsel for the parties and perused the record of the case.

8. From the perusal of record, it is evident that petitioner belongs to DESM Category. He was issued DESM certificate on 15.01.2021. The said certificate was valid till 14.01.2022. He got it renewed from time to time. The competent authority every year renewed his certificate. He was having renewed certificate on the date of filing application. The renewal was on the backside of the original certificate. He uploaded front page while filing application for CET. He did not upload backside of the certificate. He duly ticked column meant for his Category, meaning thereby, he duly lodged his claim for reservation under DESM Category in the application form. The mistake, if any, on his part was that he did not upload backside of the certificate. It is undisputed that the certificate was renewed prior to filing application form and it was valid at that time. It was also produced at the time of scrutiny of the documents.

9. The petitioner in the application form categorically claimed that he belongs to DESM Category. The Recruitment Board declared his result under said Category. The respondent is denying him benefit on the



sole ground that he did not comply with Clause 6.2 of the advertisement.

The said clause reads as:-

“6.2 The short listing of candidates shall be done on the basis of particulars filled in online application form for which supporting documents shall be uploaded. As candidates can update their particulars till closing date, thereafter, no change of particular at any stage shall be entertained. In absence of documentary evidence or mismatch in claimed category and uploaded documents, candidature of candidate shall be considered under General category/Parent category, subject to his/her fulfilling eligibility in General category/Parent category.”

From the perusal of above quoted clause, it is evident that the applicant was required to disclose his category in the online application form as well as upload supporting documents. In the absence of documentary evidence or mismatch in claimed category and uploaded documents, candidature was to be considered under General Category.

10. The petitioner undisputedly belongs to DESM Category. He filed application form in his category and also uploaded requisite certificate, though, did not upload backside of the certificate. In the scrutiny of documents, the certificate produced matched with the uploaded certificate. The said error, if any, was a curable error. Substantive benefit of reservation could not be denied for such minor procedural infirmity. There was substantive compliance by way of filing application in correct category as well as uploading certificate.

11. The respondent during the course of hearing further relied

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“6.9 Family Members of Disabled ESM/ESM candidates of Haryana claiming benefit must have valid eligibility certificate on last date of submission of online application form which is to be uploaded at the time of submitted the application and shall produce the valid Eligibility Certificate from the concerned Zila Sainik Board if called upon to do so by Haryana Staff Selection Commission.

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xxx

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From the perusal of above clauses, it is evident that during scrutiny, the Recruitment Board is supposed to look into documents which

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are uploaded along with application form. Any document which is not uploaded with the application cannot be relied upon. Object of those clauses is to deny benefit of reservation or additional marks to those candidates who have not actually claimed in the application form or failed to upload supporting documents. Another object is to ensure that applicant is actually possessing documents which is foundation of claim.

12. In the instant case, the petitioner has duly complied with the terms and conditions of the advertisement. He expressed his intention to claim benefit by filing application under DESM Category. There are many cases where candidates at the first instant file application under General Category and at the later stage claim benefit of reservation. In those cases, it can be concluded that the candidate is not entitled to the benefit of reservation. The petitioner herein duly disclosed his category in the application form. He also uploaded certificate issued by competent authority. The said certificate was duly produced before the Recruitment Board. There is substantive compliance on the part of the petitioner and he cannot be denied benefit of reservation on the ground of minor curable procedural infirmity.

13. There is another aspect of the matter. The petitioner by interim order was permitted to participate under DESM Category. The HSSC recommended his name and competent authority issued him appointment letter. He has resigned from Indian Army. If he is denied opportunity to serve with State Police, it would be injustice with him because it would deprive him from the post of Constable with State Police



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as well as Clerk with Indian Army.

14. In the wake of above discussion and findings, this Court is of the considered opinion that petitioner deserves to be considered under DESM Category. He has rightly been issued appointment letter and there is no occasion to deny him post of Constable.

15. Let the petitioner be permitted to join within a period of three weeks from today.

16. Pending application(s), if any stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

12.08.2025
Deepak DPA

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No