

Jitender Kumar Vs State of Haryana and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 2, 2013

Citation: (2013) 3 SCT 764

Hon'ble Judges: Tejinder Singh Dhindsa, J

Bench: Single Bench

Advocate: Vivek Sharma and Mr. S.N. Yadav, for Selected Candidates, for the Appellant; Harish Rathee, D.A.G., Haryana, for the Respondent

Judgement

Tejinder Singh Dhindsa, J.

The petitioner has impugned the selection and appointment of the private respondents to the post of Computer

Operator Constables (Male) in Haryana Police against the B.C. (B) Category. Petitioner further raises a prayer for directing the respondents to

appoint him on the post in question with all consequential benefits. Brief facts of the case are that the Director General of Police, Haryana issued

advertisement dated 9.9.2007 inviting applications from eligible male candidates for filling up 485 temporary posts of Computer Operator

Constables in the Haryana Police. 38 vacancies were reserved for the B.C. (B) category. The essential minimum qualification was prescribed as

class 10+2 pass from the Board of School Education, Haryana or any other recognized Board. It was further stipulated in the advertisement that

working knowledge and experience of computer handling will be judged by a test of qualifying nature by the nominated Selection Board. Still

further, preference was to be given to candidates having one year or more diploma in computer applications from any institute/work station which

is approved by HARTRON, DOEACC, NIIT, AP-TECH or any standard listed company imparting computer training. The selection procedure

was also disclosed in the advertisement itself in the following terms:-

SELECTION PROCEDURE

i) Physical Measurement

XXX XXX XXX

ii) Physical Efficiency Test

XXX XXX XXX

iii) Skill Test:

Candidates who are found eligible on the basis of Physical Measurement and PET shall be put to a test of qualifying nature by the Selection Board

to judge their working knowledge and experience of computer handling.

iv) Interview/Personality Test.

All candidates who qualify the PET and the Skill Test shall be interviewed by the Selection Board. The maximum marks for the

interview/personality test shall be 15 only.

2. It has been pleaded that the petitioner is a graduate from Kurukshetra University, Kurukshetra and has also qualified the two years certificate

course from a HARTRON work station. The petitioner is further stated to have done a three months course from Computer and Type Training

Centre, Police Lines, Hisar. It is asserted that the petitioner being fully eligible for the post of Constable Computer Operator (Male) in the light of

the advertisement applied for the post against the B.C. (B) Category. The petitioner was permitted to participate in the selection process i.e. for

the Physical Measurement Test, Physical Efficiency Test, Skill Test for computer and thereafter was even interviewed by the duly constituted

Selection Board. The result of the selection process was declared on 15.10.2008 in which the name of the petitioner figured at Sr. No. 1 in the

waiting list.

3. Learned counsel appearing for the petitioner would place reliance upon the information that had been sought under the provisions of the R.T.I.

Act to assert that the selected candidates/private respondents had submitted computer certificates from fake institutes as also from institutes which

were not having the due recognition. Counsel has further argued that the certificates attached by the selected candidates had been issued even after

the last date for submission of application forms and as such on such short ground alone the selection process cannot be sustained. It has also been

argued that 9 candidates belonging to the General Category have been selected against the reserved B.C. (B) category and such action has

worked to the clear prejudice and detriment of the petitioner, whose name appears at Sr. No. 1 in the waiting list for such reserved B.C. (B)

Category.

4. Upon notice of motion having been issued a joint written statement dated 9.8.2010 was filed by the Superintendent of Police, Palwal on behalf

of respondents No. 1 to 3. In such written statement it has been clarified that the Selection Committee in addition to the 38 candidates selected

against the B.C. (B) category as per their merit, has also selected 7 B.C. (B) candidates in the General Category. Such, candidates even though,

belonging to the B.C. (B) Category had applied in the general quota. There is a categoric denial as regards any General Category candidate having

been selected and appointed against the 38 vacancies reserved for the B.C. (B) category. That apart, an additional affidavit dated 8.9.2012 of

Superintendent of Police, Palwal was also placed on record, wherein it has been stated that 20 marks were assigned for the Physical Efficiency

Test and a candidate had to obtain a minimum of 15 marks in such test to qualify for the interview for which 15 marks had been earmarked. In

such additional affidavit it has been disclosed that the last candidate selected in the B.C. (B) category has got 26 marks (16 marks in Physical

Efficiency Test and 10 marks in interview) out of the total of 35 marks, whereas the petitioner has secured 25.5 marks (16 marks in Physical

Efficiency Test and 9.5 marks in interview).

5. Learned State counsel has accordingly, argued that the petitioner strictly in order of merit has found a place at Sr. No. 1 in the waiting list

pertaining to the B.C. (B) category and accordingly would have no grievance so as to invoke the extraordinary writ jurisdiction of this Court.

6. The original records pertaining to the selection of the candidates to the post of Computer Operator Constable against the B.C. (B) category

were also summoned by this Court and were perused with the assistance of learned State counsel.

7. The admitted position of fact is that all the selected candidates i.e. the private respondents as also the petitioner possessed the essential

prescribed minimum qualifications in the light of the advertisement. Perusal of the record would reveal that no separate marks were assigned

towards the qualifying test to ascertain working knowledge in computers. Still further, the record also shows that the selected candidates have not

been given any weightage towards the computer certificates that were placed on record. As such the submission made by learned counsel

regarding certificates having been entertained even after the last date for submission of application forms from the selected candidate would be of

no consequence.

8. The argument raised by learned counsel appearing for the petitioner that no preference has been given to the petitioner inspite of possessing

computer qualifications from a recognized work station/HARTRON is also misplaced. A Division Bench of this Court in case of Sukhwinder Kaur

v. Manjeet Kaur and others, 2012 (2) R.S.J. 396 has taken a view that the expression ""Preference"" in the context of a selection process would be

understood to be operative only in a situation where two candidates have secured identical merit. In other words only if two candidates are

similarly situated and also bracketed in order of merit, it is only then that the preference towards a particular qualification and weightage in regard

thereto would be granted. Admittedly, in the light of the facts of the present case the petitioner had secured lesser marks than the last selected

candidate for the post in question in the B.C. (B) category. As such there was no occasion for the petitioner to be accorded weightage and to be

granted preference on account of his possessing the requisite computer certificate from a recognized work station/institute.

9. Even otherwise, the pleadings on record do not bear out any assertion as regards imputation of mala fide against the duly constituted Selection

Committee/Board. As such, no inference can be drawn by this Court as regards the selection to the post of Computer Operator Constable (Male)

in the B.C. (B) Category being vitiated on account of nepotism or favoritism. For the reasons recorded above, no basis for interference in the

matter is made out. The writ petition is, accordingly, dismissed.