

(2013) 07 P&H CK 0895

High Court Of Punjab And Haryana At Chandigarh**Case No:** CWP No. 7004 of 2010 (O and M)

Jitender Kumar

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

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.