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Present: Vs. State of Punjab and Others

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Court : Punjab and Haryana

Decided On : Sep-20-2013

Appellant : Present:

Respondent : State of Punjab and Others

Judgement :

CIVIL WRIT PETITION NO.9634 of 2013 1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH CIVIL WRIT PETITION NO.9634 of 2013 DATE OF DECISION: SEPTEMBER20 2013 Rakesh Kumar Sharma .....Petitioner Versus State of Punjab and others .....Respondents CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA Present: Present Mr.Samarth Sagar, Advocate for the petitioner.

Mr.Pankaj Mulwani, Deputy Advocate General, Punjab.

TEJINDER SINGH DHINDSA, J.

The District Recruitment Board, Punjab Police issued advertisement dated 25.9.2011 inviting applications from Male and Female candidates for recruitment of 3726 Male Constables and 2000 Female Constables in the Punjab Police.

The petitioner applied for the post of Constable in District Jalandhar (Rural) against General Category.

In pursuance to the selection process that ensued, an appointment letter dated 6.6.2012 was issued to the petitioner by the Senior Superintendent of Police, Jalandhar (Rural) and the petitioner, accordingly, joined as adhoc Constable.

The present writ petition is directed against the order dated 22.3.2013 at Annexure P6 whereby he has been dismissed Malik Sushama Rani 2013.09.24 15:21 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.9634 of 2013 2 from service under Punjab Police Rules 12.21.

Learned counsel appearing for the petitioner would strenuously argue that prior to the passing of the impugned order, the petitioner had been served a show cause notice dated 2.1.2013, the contents of which would clearly reveal that on account of a mistake which was totally attributable to the respondent-authorities that the petitioner's candidature was considered against the reserved category of Wards of Freedom FighteRs.Learned counsel would submit that it was towards rectification of such mistake that the show cause notice was issued and which, ultimately, has culminated in the passing of the order of dismissal.

The precise argument raised is that since the petitioner had applied against the General Category and it was the respondent-authorities themselves who had considered him against a reserved category, no motive can be attributed to him and the action of the respondent-authorities to such extent is arbitrary and vitiated by malafides.

In the written statement that has been filed on behalf of the State, the factual position as regards the petitioner not belonging to the reserved Freedom Fighter Category is admitted.

That apart, it has been categorically stated that in the General Category, the petitioner does not achieve the benchmark as the last candidate appointed in such General Category has secured a higher merit position as compared to the petitioner.

Having heard learned counsel for the parties at length and having perused the pleadings on record, I am of the considered view that the present writ petition

deserves dismissal.

Malik Sushama Rani 2013.09.24 15:21 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.9634 of 2013 3 It is the pleaded case of the petitioner himself that he belongs to the General Category.

Clearly, his candidature was to be considered against such General Category.

Even the respondent-authorities had mistakenly considered his candidature against the reserved Freedom Fighter Category and had even offered appointment to him.

Such mistake cannot be permitted to operate in perpetuity.

In terms of issuance of the show cause notice and passing of the dismissal order, such mistake has been rectified.

No exception can be taken to such couRs.of action having been adopted.

Undoubtedly, the petitioner was vested with a right for fair consideration as regards appointment to the post of Constable against the General Category.

In that respect, he has secured lower merit than the last candidate selected and appointed as Constable in District Jalandhar (Rural).The specific averment contained in the written statement in such regard has not met with any rebuttal at the hands of the petitioner.

Accordingly, I find no infirmity in the passing of the impugned order of dismissal dated 22.3.2013 at Annexure P6.

The writ petition is dismissed.

Under the facts of the present case, it would suffice to observe that such order of dismissal would not be treated as a disqualification to the prejudice of the petitioner as and when he seeks employment avenues elsewhere.

(TEJINDER SINGH DHINDSA) September 20, 2013 JUDGE Sr.Malik Sushama Rani 2013.09.24 15:21 I attest to the accuracy and integrity of this document

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