



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
LPA No. 423 of 2025(O&M)
Date of Decision: 14.02.2025**

State of Punjab and another

.....Appellants

Versus

Gagandeep Singh and another

..... Respondents

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. R.S.Pandher, Sr. DAG., Punjab
for applicant-appellants.

LISA GILL, J.

1. Prayer in this appeal is for setting aside order dated 14.03.2024 passed by learned Single Judge, whereby CWP No. 25828 of 2021, filed by respondent No. 1/writ-petitioner was allowed.

2. Respondent no.1/writ-petitioner filed the abovesaid writ petition seeking a direction to present appellants to appoint him on the post of Constable pursuant to advertisement dated 31.05.2016. Said writ petition was allowed vide impugned order dated 14.03.2024. Case set up by writ-petitioner is that being fully eligible, he applied for the post of Constable under General Category, pursuant to advertisement dated 31.05.2016. As per advertisement dated 31.05.2016, minimum educational qualification of 10+2 or its equivalent from recognized education board/university was prescribed. Writ-petitioner had cleared his 10+2 and had also secured a diploma in Electrical Engineering. As per advertisement dated 31.05.2016, candidate possessing the minimum qualification with first division was entitled to 13

marks and to 12 marks in case he had qualified with second division. Writ-petitioner was entitled to 13 marks on the basis of diploma and to 12 marks on the basis of 10+2. He submitted his application form, disclosing marks secured by him in the diploma. Department on the basis of marks obtained in the diploma as well as the other criteria as per the advertisement, assessed marks secured by the writ-petitioner to be 28. His name figured in the provisional merit list uploaded on the official website. He appeared for counselling and during scrutiny of documents it was found that he had also cleared his 10+2 besides holding diploma in electrical engineering. He secured 52.2 % marks in 10+2 and 63.23 % marks in the diploma. Result of writ-petitioner was revised on the basis of marks obtained by him in 10+2 and total marks secured by him in the selection were reduced from 28 to 27. He could thus not be selected as cut-off for appointment in the Armed Police Cadre was 28 and 29 for District Police. CWP No. 3454 of 2017 filed by writ-petitioner was disposed of on 07.03.2019 directing the department to decide representation submitted by writ-petitioner. In compliance thereof, order dated 09.05.2019 was passed, whereby representation of writ-petitioner was rejected on the ground that he has secured 27 marks only which is less than the cut-off marks.

3. Aggrieved therefrom, CWP No. 25828 of 2021 was filed by writ-petitioner, which was allowed by learned Single Bench while holding that writ-petitioner was possessing the stipulated qualification of 10+2 as well as diploma in electrical engineering, thus department was not justified in considering marks of 10+2 while ignoring the marks secured by writ-petitioner in diploma. Argument raised on behalf of the department that all advertised posts have been filled up was negated with the observation that there had been no lapse on the part of writ-petitioner, who was pursuing the

matter since 2017 and that the respondent from time to time had been advertising the posts of constables, which were thus clearly available.

Relevant portion of order dated 14.03.2024 reads as under:-

“11. In the wake of above facts and findings, this Court is of the considered opinion that present petition deserves to be allowed and is accordingly allowed. The respondents are directed to appoint the petitioner on the post of Constable without disturbing last selected candidate under General Category. There are all possibilities that many persons have been appointed during the intervening period. The petitioner has not served the respondent-State, thus, he is not entitled to back wages and other service benefits. The petitioner shall be issued appointment letter within one month from today. He is 34 years old, thus, if he joins at this stage, would have sufficient period to serve and complete qualifying service for all pensionary benefits, therefore, for all intent and purposes, he would be treated part of the force from the date of joining.”

4. Aggrieved therefrom, present appeal has been filed by appellant-State with delay of 297 days.

5. Learned counsel for appellants vehemently argues that impugned order dated 14.03.2024 has been incorrectly passed. Once the writ-petitioner had obtained marks which were lesser than the cut-off, there was no question of directing his appointment. Moreover, as all the advertised posts had been consumed, there was no occasion for allowing the writ-petition. Learned counsel further submits that delay in filing the appeal is due to administrative exigencies and procedural delays and that mere technicalities should not obstruct the process of administration of justice. It is thus prayed that present appeal be allowed and writ petition filed by respondent-writ-petitioner be dismissed.

6. We have heard learned counsel for the appellants and have

perused the file with his able assistance. However, we do not find any ground whatsoever to cause interference in this appeal.

7. It is a matter of record that educational qualifications as prescribed in advertisement dated 31.05.2016 read as under:-

“C. EDUCATIONAL QUALIFICATIONS”

The minimum Educational qualifications shall be 10+2 or its equivalent from a recognized Education Board/University, and the candidate must have passed Matriculation examination with Punjabi as one of the compulsory or elective subjects or any other equivalent examination in Punjabi language.”

8. No stipulation on record has been pointed out which makes it mandatory that in case a candidate possesses qualification of having cleared 10+2 as well as its equivalent, it is only the qualification of 10+2 which would be considered to the exclusion of its equivalent. It has been rightly held by learned Single Bench that in the absence of any such specific instructions, the department was not entitled to consider only the marks secured by writ-petitioner in 10+2 to the exclusion of marks secured by him in the diploma. Genuineness of diploma held by writ-petitioner or its equivalence with 10+2 is not in dispute. In this view of the matter, it has been correctly held that candidature of writ-petitioner could not be rejected on this account.

9. We also do not find any merit in the argument raised by learned counsel for appellants that no direction to appoint the writ-petitioner could have been issued, at this stage. It is to be noted that appellants have been directed to appoint writ-petitioner to the post of Constable without disturbing the last selected candidate under the General Category. He has not been held entitled to back-wages and other service benefits. Keeping in view the facts and circumstances as above, we do not find any ground whatsoever

to interfere in the impugned order dated 14.03.2024.

10. It is pertinent to note at this juncture that delay of 297 days in filing this appeal is also not explained. Merely to say that delay occurred due to administrative exigencies and inter departmental procedure is not sufficient to condone such long delay. Hon'ble the Supreme Court in **Union of India and another Vs. Jahangir Byramji Jeejeebhoy (D) Through His LR, 2024(2) RCR (Civil) 571** while considering the question of delay on the part of State/Governmental agencies in approaching Courts deprecated the reliance of departments on impersonal procedural delays for condonation of delay. Reference was made to its earlier decision in **Postmaster General and others v. Living Media India Limited, (2012) 3 SCC 563**, wherein it was held that in the absence of plausible and acceptable explanation, delay is not to be condoned mechanically, merely because the government or its wing is seeking condonation of delay. It was further held in the case of **Union of India and another Vs. Jahangir Byramji Jeejeebhoy (D) through his LR (supra)** that :-

“In a plethora of decisions of this Court, it has been said that delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in this case.”

11. In the given factual matrix, we do not find any reasonable or plausible explanation coming-forth which would persuade us to condone the delay in filing this appeal.

12. Learned counsel for appellant is unable to point out any illegality, infirmity or perversity in the impugned order dated 14.03.2024, passed by learned Single Bench, which calls for interference by this Court.

13. No other argument has been addressed.

14. Keeping in view the facts and circumstances as above, this appeal is dismissed being devoid of any merit as well as being time barred.

Pending application(s), if any, stand(s) disposed of accordingly.

**(LISA GILL)
JUDGE**

**(ALOK JAIN)
JUDGE**

February 14, 2025.

s.khan

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No