

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

Case No. SWP No. 933/09

Gara Ram Loach v. State and ors

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Coram:

**Hon'ble Mr Justice Muzaffar Hussain Attar, Judge**

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**Appearing counsel:**

Mr Ajay Gandotra, Adv.

Mrs Neeru Goswami, Dy.AG

Mr. S. K. Shukla, Advocate

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Whether approved for reporting

**Yes/No**

In Digest/Journal/Media.

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(Oral)

Police Headquarters, Jammu and Kashmir, Srinagar, issued advertisement notice dt. 26<sup>th</sup> of Aug'2006, wherein and whereunder applications as per the proforma enclosed therewith, were invited from the permanent residents of the Jammu & Kashmir State, for recruitment of 2000 posts of Constables in IRP 13<sup>th</sup> and 14<sup>th</sup> Bns, in the pay scale of Rs. 2750-70-3800-75-4400/- plus allowances as sanctioned by the

State Government. The terms and conditions which were to be fulfilled by the aspiring candidates were also mentioned in the said advertisement notice.

Petitioner who belonged to the Scheduled Caste (SC) category, responded to the said advertisement notification and submitted his application form, as per the pleadings, complete in all respect and also besides enclosing other certificates, the SC category certificate was also enclosed. Petitioner claims that he was subjected to selection process

but was not considered for being appointed to the post of Constable for the reason that he had not enclosed the category certificate with the application form.

In para 6 of the objections filed by the respondents, it is stated that as per the report of APHQ, the perusal of application form of the petitioner reveals that in the list of enclosures, besides other certificates, he has written category certificate also but the learned Addl. Advocate General, appearing for respondents stated that the petitioner had not enclosed the category certificate with the application form.

In view of the stand taken by the respondents that category certificate (SC) was not enclosed with the application form, the learned Addl. Advocate General, appearing for the respondent-State was directed to produce the original application form of the petitioner before the court. The said application form has been produced in the court, perusal whereof reveals that in column 7, petitioner had tick marked category (SC) and at Sl.No.11 in the list of enclosures, besides other certificates, category certificate (SC) has also been mentioned.

Heard learned counsel for the parties.

Considered.

Learned Addl. Advocate General appearing for the respondents stated that even though, the petitioner had mentioned in the list of enclosures that the category certificate is enclosed but infact, the said certificate was not enclosed and due to this, he could not be considered for appointment against the post of Constable. The submission so made is without any basis in view of the mention made

by the petitioner in the application form about the list of enclosures. Had the petitioner failed to produce the category certificate, mention of which was made in the enclosure list, the authority who had entertained the application form would have, then and there after checking the application form, mentioned that the category certificate (SC) is not enclosed with the form. There being no report recorded on the application form about non-enclosing of the category certificate (SC), in the facts and circumstances of the case, this would be presumed that the category certificate (SC) was enclosed by the petitioner with the application form. Even otherwise also, the petitioner admittedly belongs to SC category. If the petitioner had not enclosed the category certificate with the application form, mention whereof has been made in the said form, he could have been asked to produce the category certificate by the respondents to evidence this fact. But as there was no report of the authority who entertained the application form that the category certificate (SC) is not enclosed, shows that the respondents were satisfied that the certificate has been enclosed and subjected the petitioner to the selection process which fact is evidenced from the perusal of application form on which observations have been made about the petitioner in respect of height, chest, High Jump-B, 100 metres and 1500 metres race. Petitioner could be subjected to the selection process only when he fulfilled all the requirements which were mentioned in the advertisement notice.

In the aforementioned facts and circumstances of this case, it seems that the petitioner has been illegally and wrongly denied consideration for appointment to the post of Constable.

This court after considering the matter on 2<sup>nd</sup> of June'09, directed the respondents to keep one post of Constable reserved till the decision of the petition.

For the above stated reasons, this petition is allowed and respondents are directed to consider the petitioner for appointment on the post of Constable against SC category. They shall take a decision within eight weeks from the date a copy of this order is served upon them by the petitioner. It is further provided that, in case, during the pendency of the writ petition, the petitioner has crossed the upper age limit, that shall be deemed to have been relaxed for the reasons that he was arbitrarily denied consideration for appointment and was prosecuting his case before the court.

The original application form of the petitioner along with enclosures which was produced by the learned Addl. Advocate General, is returned to him in the open court.

Petition is disposed of along with all connected CMPs.

**(Muzaffar Hussain Attar)**  
**Judge**

**Jammu**

**Dt. 20.9.11**

*SS Khalsa/*