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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CWP- 9166 - 2019(O&M)
Reserved on :-16.09.2024
Date of Decision : 14.10.2024**

Multan Singh

...Petitioner

VERSUS

The Central Administrative Tribunal,
Chandigarh & Others

...Respondents

**CORAM : HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. R.K.Arora, Advocate for the petitioner.

Mr. Anandeshwar Gautam, Senior Panel Counsel, UOI.

Mr. Prateek Rathee, Advocate for U.T.Chandigarh.

Mr. Parvesh K. Saini, Advocate for respondent No.7.

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SUDEEPTI SHARMA, J.

The challenge in the present writ petition is to the order dated 19.09.2019 passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh in *OA No.060/00195/2018* titled as ***“Senior Constable Multan Singh No.1787/CP Vs. Union of India and Others”***, whereby, the prayer of the petitioner for quashing the action of the respondents in cancelling the candidature of petitioner after his appointment on the post of Assistant Sub Inspector, quashing the impugned enquiry report dated 30.11.2015, order dated 20.03.2017 and the order of Appellate Authority dated 01.12.2017, dismissing the statutory appeal of the petitioner and grant of all the consequential benefits, was dismissed.

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2. The brief facts of the case are as under:-

- i) The petitioner was appointed as constable on 26.02.2002 in Chandigarh Police.
- ii) On 18.02.2007, advertisement was published for recruitment of 20 posts of Assistant Sub Inspectors, out of which 10 posts were meant for General Categories Candidates. It was stipulated that the entire selection process will be videographed. The criteria for selection was as per the standing orders. The appeal is provided under Clause 7 of the standing order. Roster of duties for recruitment of ASI was issued. The Appeal Board Staff was provided in the same.
- iii) On 15.05.2007, the physical efficiency test and physical measurement test was carried out. The petitioner cleared high jump in his first attempt and long jump in 3rd attempt, which was announced by the official of Chandigarh Police. His chest was wrongly measured as 32"-34", therefore, he preferred an appeal as available to him before the Chairman Selection Board-cum-Appellate Board and his chest was re-measured and found out to be 33"-34 ½".
- iv) A written test was conducted on 23.12.2007. On 11.01.2008, Chandigarh Police received secret information disclosing that the question paper of the written test held on 23.12.2007 was leaked out and sold to some candidates.
- v) On 21.01.2008, despite information of leakage, interviews were conducted and selection list was declared. The petitioner was placed in the waiting list.

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- vi) On 29.01.2008, the petitioner filed Original Application No.52/HR/2008 before the Central Administrative Tribunal, Chandigarh Bench, Chandigarh for setting aside the test and interview.
- vii) In an internal investigation carried out by respondent No.4 it came to be true that the written examination was indeed leaked out and FIR No.31, dated 08.02.2008, under Section 420, 120-B of the Indian Penal Code, 1860 was registered at Police Station Sector 3, Chandigarh and thereafter, respondent No.4 on 07.03.2008 decided to hold written examination afresh.
- viii) Vide order dated 10.03.2008, Original Application No.52/2008 was disposed of as infructuous.
- ix) On 26.09.2008, aggrieved against the above decision of holding the written examination afresh, selected candidates filed OA No.160 of 2008, OA No.459 of 2008 and OA No.613 of 2008 before the learned Chandigarh Administrative Tribunal, Chandigarh Bench, Chandigarh with a prayer to quash the decision of respondent No.4.
- x) The learned Tribunal vide order dated 26.09.2008 directed respondent No.3 to review the selection by passing a speaking order.
- xi) On 08.03.2011, aggrieved against the above directions, respondent No.3 filed CWP Nos.6340, 7148 and 7251 of 2009 before this Court. This Court vide order dated 08.03.2011 allowed the writ petitions and set aside the order of learned Tribunal. Cancellation of examination was upheld.
- xii) On 05.06.2011, fresh written test was conducted.

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xiii) On 16.06.2011 fresh interviews were conducted. The petitioner cleared the same and was selected for the post of Assistant Sub Inspector.

xiv) On 14.10.2011, appointment letter was issued for reporting on duty, wherein two dates were mentioned i.e. 16.10.2011 and 18.10.2011.

xv) On 18.10.2011, the petitioner reported at Police Headquarter, Sector-9, Chandigarh for joining. On 18.10.2011 itself the Senior Superintendent of Police, Chandigarh also allotted belt/regimental number to the petitioner. And on 18.10.2011 a complaint alleging gross-irregularities in the physical efficiency and physical measurement test in year 2007 and 2009 was received. Similar complaint was also made to the Central Bureau of Investigation, Chandigarh Branch.

xvi) Accordingly, vide order dated 20.10.2011 respondent No.3 constituted a committee to conduct a detailed enquiry by examining the entire photography of the physical efficiency test/physical measurement test and other relevant record which after reviewing the DVDs of physical examination and efficiency test vide its report dated 03.11.2011 observed that under these circumstances the candidates were not allowed to join.

xvii) On 26.02.2012, Central Bureau of Investigation authorities submitted their report to respondent No.4 wherein the petitioner was declared disqualified. At the time of measurement of his chest by SI Sukhdeep Singh by writing 32"-34" on his chest and was declared



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disqualified by marking 'D/Q' in the chart and in the column "Remarks" of the same chart, it was recorded that "appeal heard by Chairman and was declared qualified", was found mentioned. But as alleged by the respondents that on perusal of videography of appeals made by candidates before the Appellate Board, it surfaced that the petitioner did not make an appeal before the Chairman of the Appellate Board. Hence, the short measurement of chest being corrected by the Appellate Board on re-measurement is not a fact corroborated by evidence of video-footage. It is further alleged by the respondents that the petitioner did not take any such plea of video-footage being tampered before the authorities and it also surfaced that the petitioner did not clear the long jump in his batch as alleged by the respondents, despite both the deficiencies, his name was found in the list of finally selected candidates for the post of ASI.

xviii) The report further stated that "prima facie commission of gross-departmental misconduct and malpractice on the part of the officers/officials of Chandigarh Police is involved in recruitment process and the selected candidates for the post of ASI". It recommended for major penalty against the officers/officials of U.T Police Chandigarh, who remained associated with recruitment process as well as major penalty and cancellation of candidatures of officers/officials of U.T. Police, Chandigarh, who were ineligible but got themselves selected in collusion with the officers/officials of Chandigarh Police for the post of ASI.

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xix) On 31.05.2012, pursuant to report of the CBI, respondent No.4 cancelled the selection of petitioner and 9 other candidates. On 06.06.2012 pursuant to the cancellation orders the respondents also issued orders initiating the disciplinary proceedings against the petitioner.

xx) On 26.06.2012, the Senior Superintendent of Police conducted enquiry and observed short-comings with reference to CBI report.

xxi) On 04.07.2012, the petitioner filed OA No.667/HR/2012 and in para 4 (vi) the petitioner stated the entire sequence of facts as to how his chest was re-measured on his appeal and he cleared the long jump in 3rd attempt. In the reply filed by the respondents the contents of 4(vi) were admitted.

xxii) On 25.09.2012, the other candidates were allowed to join as ASI.

xxiii) On 19.10.2012, learned Central Administrative Tribunal allowed OA No.667/HR/2012 and quashed the order of IGP regarding cancellation of candidature of petitioner and directed to revisit the entire aspect. This Court vide order dated 11.01.2013 upheld the order dated 19.10.2012 passed in OA No.667/HR/2012.

xxiv) On 13.02.2013, the cancellation of candidature of 10 candidates was revoked by Inspector General of Police (IGP). On 19.02.2013, the petitioner submitted representation to Senior Superintendent of Police stating the entire sequence of facts.

xxv) Vide order dated 24.05.2013 plea of the petitioner about his re-measurement of chest was accepted but still his candidature was



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cancelled on the ground that the petitioner did not clear long jump. On 05.07.2013, the petitioner filed OA No.928/HR/2013, challenging order dated 24.05.2013. The same was dismissed by the learned Central Administrative Tribunal, Chandigarh Bench on 14.11.2014.

xxiv) The petitioner filed CWP No.25669 of 2014 challenging order dated 14.11.2014 passed by the learned Central Administrative Tribunal. On 27.03.2015 the said writ petition was disposed of with a direction to the Enquiry Officer to examine the record of the enquiry conducted so far and reopened the enquiry proceedings from that stage and conclude the same in accordance with law.

xxv) On 30.11.2015, the enquiry was concluded by holding that the petitioner in collusion with some officials of Chandigarh Police got himself selected for the post of ASI.

xxvi) On 29.04.2016, show cause notice was issued to the petitioner as to why the punishment of forfeiture of his one year approved service for increment purpose with permanent effect be not imposed upon him. On 19.05.2016, the petitioner submitted a reply that the enquiry was not conducted properly and stated the entire sequence of facts.

xxvii) On 20.03.2017, the punishment of forfeiture of one year approved service for increment purpose with permanent effect was imposed upon him. On 20.04.2017, the petitioner filed an appeal, which was rejected on 01.12.2017 by respondent No.5.

xxviii) On 19.02.2018, the petitioner filed **OA No.060/00195/2018**, titled as “**Senior Constable Multan Singh No.1787/CP Vs. Union of**



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India and Others” before the Central Administrative Tribunal, Chandigarh Bench, challenging the order dated 01.12.2017. The same was dismissed vide judgment dated 19.02.2019, which is impugned in the present writ petition.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PARTIES

3. Following are the submissions of learned counsel for the petitioner:-
- i) He contends that orders dated 30.11.2015 and 20.03.2017 are non-speaking and cryptic, which are based on finding of CBI without application of mind.
 - ii) He further contends that the petitioner is found guilty without any independent inquiry as directed by this Court in CWP No.25669 of 2014 filed by the petitioner.
 - iii) He further contends that the objections and grounds raised by the petitioner have not been considered before passing the impugned orders.
 - iv) He further contends that OA No.060/00195/2018 filed by the petitioner is dismissed vide impugned order dated 19.02.2019 without considering the facts on record.

Therefore, he prays that the present petition be allowed.

4. *Per contra*, learned counsel for the respondents contends that there is no illegality and perversity in the impugned order dated 19.02.2019 passed by the learned Central Administrative Tribunal, Chandigarh Bench, Chandigarh. Therefore, the present writ petition deserves to be dismissed.

5. We have heard learned counsel for the parties and perused the whole record of this case.



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6. The relevant portion of the **OA No.060/00195/2018** titled as “**Senior Constable Multan Singh No.1787/CP Vs. Union of India and Others**” is reproduced as under:-

“21. We note that the selection procedure was videographed and the videography evidence was assessed by the CBI and separately by the Inquiry Officer who has made his observation after appreciating the documentary evidence and evidence produced in the process of examination of witnesses to establish the charges against the applicant. The inquiry held the applicant guilty of the charge. The selection process is preceded by making offers of appointment to the persons in the select list and based on the order dated 04.04.2016 of the Tribunal in an OA filed by one Sh. Suresh Kumar, the Select List has been recast by including the candidates who are next in order of merit and a replacement of the candidates who were excluded on account of discrepancies in the selection process and the appointment made thereon.

22. The applicant has participated in the inquiry and has also used the appellate and the revisionary rights provided under the disciplinary rules. This is a case where some perversity had been perpetuated which vitiated the selection process in respect of some candidates. This has been established in the form of a CBI inquiry followed by a departmental inquiry and a perusal of the video recording of the physical measurement test. The applicant has been given a chance to defend himself in the inquiry and there is no case that he did not use this opportunity. The cancellation of the



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candidature of the applicant therefore has been made on the basis of a CBI inquiry followed by a departmental inquiry. The matter was before this Bench earlier as cited in pre-paras which dismissed the OA, and even the High Court did not set aside the recruitment, but only gave an opportunity in the form of re-inquiry, if considered necessary. It is not a case where the applicant has not been given an opportunity to establish his case for appointment. Having used the opportunity, he cannot now turn around and pray for setting aside the cancellation of his candidature and the punishment of forfeiture of one year of approved service for increment purpose with permanent effect.

23 The Tribunal cannot take over the function of the disciplinary authority. The truth or otherwise of the charges or correctness of the findings is a matter for the disciplinary authority to go into. The inquiry was conducted by a competent officer, findings and conclusions are based on evidence, and the authority entrusted with the task of holding the inquiry had the jurisdiction, power and authority to reach a finding of fact or conclusion. Suffice it is to say that finding or conclusion should be based on some evidence.

24. For the foregoing discussion, this OA, being devoid of merit, is dismissed. There shall be no order as to costs.

ANALYSIS OF THE RECORD

7. A perusal of the above shows that the learned Central Administrative Tribunal, Chandigarh Bench, Chandigarh did not discuss anything regarding the impugned orders dated 20.03.2017 and 01.12.2017.

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8. A perusal of the enquiry report dated 30.11.2015 shows that all the witnesses examined in enquiry proceedings, deposed in favour of the petitioner.

9. **Inspector Jasminder Singh, I/C Operations Cell, Sector 26, Chandigarh** in his statement stated that he had seen the videography in the computer, in which chest No.46 (green colour) namely Multan Singh did not qualify long jump in first two attempts as per timing 18:48 & 24:39 respectively. In the third attempt as per time 24:50 candidate chest No.46 (green colour) qualified the long jump and it was personally measured by Inspector J.S.Cheema.

10. As per statement of **J.S.Cheema (Retd. DSP)**, he was deputed in Police Lines, Sector 26 for long jump event in recruitment process for the post of ASI Chandigarh Police as supervisory officer and at that time S.I Jasminder Singh, HC Ram Dhan RTC and HC Gurnam Singh RTC were also deputed with him. Sh. B.S.Chadha was the overall in-charge of the long jump event, whenever concerned police officials used to bring candidate along with the documents for long jump to him, he used to line up the candidate as per their chest number and long jump event was conducted. He further stated that he personally used to measure the distance of long jump with the help of inch tape and entry in event chart was made by him. He further stated that he had seen videography of long jump in the computer and seen that on 15.05.2007 to 18.07.2007 chest No.46 (green colour) namely Constable Multan Singh No.1787/CP did not qualify long jump in first two attempts as per timing 18:48 & 24:39, respectively. In the third attempt as per time 24:50 candidate chest No.46 (green colour) qualified the long jump and the distance of long jump was personally measured by him, which was absolutely correct and nothing is increased or decreased in the measurement. He further stated that the finishing and landing point was marked by white powder and both lines

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were 3" to 4" broad. The jump was measured with the help of other officials and it was approved by Sh. B.S.Chadha, who was sitting at a distance of 3 to 4 feet.

11. **Inspector S.P.S Sondhi, EOW, UT, Chandigarh** in his statement stated that he was deputed for appeal board staff with Inspector Kewal Krishan in recruitment process of ASI, Chandigarh Police and Sh. Dinesh Bhatt IPS, SSP/Operations was the Chairman/Head of the appeal board. He stated that as per the record/proceedings Constable Multan Singh S/o Man Singh appeared before him and Inspector Kewal Krishan for measurement of chest and it was their duty to produce the candidate before the appeal board. Multan Singh was produced before the Chairman for re-measurement of his chest and by order of the Chairman chest of Multan Singh was measured and he was declared qualified by the Chairman. As per the procedure Inspector Kewal Krishan made an entry in the result sheet with remarks that "Appeal heard by Chairman and rechecked and found qualified". He, Inspector Kewal Krishan and Shri. Dinesh Bhatt Chairman put their initials in the column and Multan Singh was declared qualified as per his chest re-measurement 33"-34 ½". All the process of appeal and re-measurement of chest and entry in the column were made in the presence of the Chairman. He further stated that numbers of cameras were installed at different places and he stated that at the time of re-measurement of chest by appeal board no video camera, still camera or any other electronic equipment was installed at appeal board counter. He further stated that there is no record of recording in respect of re-measurement of chest in respect of Multan Singh.

12. As per the statement of **Inspector Kewal Krishan, Traffic Staff, U.T.Chandigarh**, Multan Singh (petitioner) appeared before the Chairman for re-measurement of his chest and by order of Chairman Inspector S.P.Sondhi re-



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measured the chest of Multan Singh (petitioner) and as per criteria his chest was found 33" x 34 ½". And as per the procedure he, S.P.S.Sondhi and Chairman made an entry in the result sheet with the remarks that "Appeal heard by Chairman, rechecked & found 33" - 34 ½".

13. A perusal of the record also shows that the witnesses regarding the chest examination before the filing of the appeal by petitioner Multan Singh were also examined, who stated his chest to be 32"-34" and after re-measurement before the appeal board his chest was measured as 33" - 34 ½".

14. As per statement of **Sh. Gurnam Singh**, on 15.05.2007 his duty was at long jump counter and he was assigned work to line up the candidates who had qualified the earlier events. Every candidate was given three chances for long jump and if the candidate has cleared it in first attempt then no further chance was given to him. If the candidate had cleared in remaining two chances then he was declared as qualified. The candidate who did not clear the long jump in three chances, he was disqualified and removed from long jump area. He further stated that he had seen the videography dated 15.05.2007 in the computer in which Constable Multan Singh sitting in front of him was having chest No.46 (green colour) was jumping and did not clear the long jump in first two chances but he cleared the long jump event in the third chance. He further stated that Inspector J.S.Cheema personally measured the long jump and shouted as 14'-4" and marked him qualified. He further stated that his duty was to hold inch tape at one end and HC Ram Dhan was deputed on the other end.

15. As per statement of **Sh. B.S.Chadha, DSP-IRB, Sarangpur, U.T.Chandigarh**, he was deputed to supervise long jump and high jump event duty in connection with recruitment for the post P/ASI in Chandigarh Police. He



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further stated that Multan Singh serving as constable in Chandigarh Police failed in two attempts in long jump event and as per video clipping Inspector J.S.Cheema declared him qualified as the candidate cleared his long jump in third attempt covering 14.4 feet. Mr. J.S.Cheema, announced in his loud voice very much clear in the video clipping, thereafter he made entry in the prescribed form and put his initials acknowledging Multan Singh as successful candidate.

16. After examining all the witnesses the Enquiry Officer framed following charges against Multan Singh (petitioner), which were submitted for approval before the competent authority on 01.05.2015:-

“ From the evidence brought on file, charge against you Multan Singh No.1787/CP, is framed. I, Ram Nivas Meena, IPS, Commandant-IRB-cum-enquiry officer hereby charge you (Multan Singh) that as per D.I.G/CBI, Chandigarh report vide Letter No.0414/CBI/ACB/CHG dated 26.03.2012 (of the Head of Branch, CBI, ACB, Chandigarh in SIR RSCHG2011A0012 held) that you, Ct. Multan Singh No.1787/CP S/o Sh. Man Singh, who is selected for the post of ASI under General Category of Recruitment – 2007, was disqualified at the time of measurement of chest and was marked “DQ” meaning disqualified in the chart.

However, in column “Remarks” of the chart mentioned that appeal heard by chairman and was declared qualified by S.I S.P.S Sondhi. However, in the DVD containing videography of appeals made by candidate before Appellate Board, you did not appear to have appealed before the Chairman.



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Even then you attended all other events. You again could not clear long jump in your batch and made two further attempts with some other batch but could not clear the long jump. However, Later your name figured in final list of selected candidates for the post of Assistant Sub-Inspector.

The CBI/ACB/CHD stated in its report that you were ineligible, but got yourself selected in collusion with the officers and officials of Chandigarh Police conducting the said physical endurance and measurement test, for the commission gross departmental misconduct on your part as seen in the video recording of Long Jump.

The above act on your part tantamount to grave misconduct, negligence, indiscipline, unbecoming of a police officer being a member of disciplined force.”

17. Reply to the charge-sheet was submitted by the petitioner and everything was explained therein regarding the chest measurement and long jump. The following conclusion was drawn by Sh.Ram Nivas Meena, IPS, Commandant-IRB-cum-EO, U.T.Chandigarh:-

“Conclusion:-

As per the proceeding and documents on record Const. Multan Singh was disqualified at the time of measurement of chest by SI Sukhdeep Singh by writing 32” & 34” on his chest. He is mentioned as disqualified by marking “D/Q” in the chart and it is further mentioned in the column “Remarks” of the chart that “appeal heard by Chairman and was declared qualified by SI S.P.S.Sondhi. However, in the DVD containing videography of appeals made by



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candidates before the Appellate Board, Multan Singh did not appear to have appealed before the Chairman. Even then he attended all other events. He again could not clear long jump event in his batch and made 02 further attempts with some other batch but could not clear the long jump.

In view of the facts & circumstances, scrutiny of the documents collected during verification including DVDs, it has been established that Multan Singh s/o Man Singh clearly seen touching the taking off point (whiteline) as well as landing point (whiteline) of long jump event. This is clear cut sign of disqualification in third/last attempt.

Since, he had fallen back therefore, distance covered needed to be/should have been measured from the hip marks seen at jumping pit in video.

Insp. J.S.Cheema stated that DSP B.S.Chadda was sitting at a distance of 3 feet from the landing pit whereas DSP B.S.Chadda himself claimed that he was sitting in tent 15 feet away from the landing pit.

The running speed in which Multan Singh is seen in last/third attempt also suggest that under no circumstances he or anyone could jump 14 feet without touching taking off and landing point/s.

In view of above, I am of the opinion that constable Multan Singh is guilty of the charge.

18. On 29.04.2016, a show cause notice was issued to the petitioner as to why punishment of forfeiture of one year of approved service for increment purpose with permanent effect may not be imposed upon him. Reply to the show

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cause notice was submitted by the petitioner. After considering the same vide order dated 20.03.2017 Senior Superintendent of Police, Security & Traffic, U.T.Chandigarh, on the basis of enquiry report without application of mind approved the punishment of forfeiture of one year of approved service for increment purpose with permanent effect.

19. The petitioner filed an appeal against the order dated 20.03.2017 before the Director General of Police, U.T.Chandigarh, who vide order dated 01.12.2017 dismissed the same by passing the non-speaking and cryptic order. The orders dated 30.11.2015, 20.03.2017 and 01.12.2017 were challenged by the petitioner by filing ***OA No.060/00195/2018*** titled as “***Senior Constable Multan Singh No.1787/CP Vs. Union of India and Others***” before the learned Central Administrative Tribunal, Chandigarh Bench, Chandigarh, which was dismissed by the learned Tribunal vide its judgment dated 19.02.2019.

CONCLUSION

20. A perusal of the Original Application also shows that nothing has been discussed by the learned Tribunal while dismissing the same.

21. A perusal of the whole record, out of which the statements of the witnesses which are discussed above before the Enquiry Officer and the documents, show that the petitioner was a qualified candidate and Enquiry Officer has wrongly declared him guilty of the charge as referred to above and orders dated 20.03.2017, 01.12.2017 and 19.09.2019 are passed without application of mind and without taking into consideration the evidence on record, which is admitted by the members of the recruitment board. This shows total non-application of mind on the part of Enquiry Officer.

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22. In view of the above, order dated 19.09.2019 passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh in ***OA No.060/00195/2018*** titled as ***“Senior Constable Multan Singh No.1787/CP Vs. Union of India and Others”*** and orders dated 30.11.2015, 20.03.2017 and 01.12.2017 passed by the authorities concerned, are set aside and the present writ petition is allowed.

23. Pending applications, if any, also stand disposed off.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

October 14, 2024
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Whether speaking/non-speaking : Speaking
Whether reportable : Yes