

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**CWP No. 1222 of 2018
Decided on: 27.07.2026**

Kulbinder Singh petitioner
Versus

Union of India and others
.....respondents

Coram:

Hon'ble Mr. Justice Bipin Chander Negi, JudgeWhether approved for reporting? ¹

For the petitioner : None.

For the respondents : Mr. Ajay Singh Kashyap, Advocate,
vice Mr. Ajay Kumar Chauhan,
CGC, for the respondents.

Bipin Chander Negi, Judge (oral)

The admitted position in the case at hand is that the petitioner was a candidate for the post of Constable (G.D.) in the ITBP Force examination held in the year 2011 under Roll No. 1202501432. The category code of the petitioner was 9, i.e. the petitioner had filled the application form as a General Category candidate. For participation in the selection process, the petitioner had submitted his domicile certificate of Himachal Pradesh. The application form had been submitted to the Staff Selection Commission (NWR), Chandigarh.

2. The petitioner had appeared in the written examination and had scored 33 marks. Selection had been made

¹ Whether the reporters of the local papers may be allowed to see the judgment?

on the basis of merit. The cut-off marks for the General Category candidates having domicile of Himachal Pradesh were 62 marks. The cut-off marks in Reserve List-1 for the Unreserved Category were 66 marks, and in Reserve List-2, the cut-off marks for the General Category candidates were 48 marks. The same is evident from Annexure P-5/2, being the reply sent to the legal notice dated July, 2017, placed at page 33 of the paper book, and from the perusal of the reply (specifically running page 58, internal para 8 thereof).

3. From the perusal of the reply, it is evident that the initial select list was dated 18.08.2011, Reserve List-1 was dated 13.09.2011, and Reserve List-2 was dated 14.05.2012. In the aforesaid background, two specific preliminary objections have been taken. One, with respect to no part of the cause of action having arisen within the territorial jurisdiction of this Court, the petition is stated to be not maintainable. Other than the aforesaid, an objection with respect to delay and laches has specifically been raised, as, with respect to a recruitment process initiated in the year 2011 and completed by May, 2012, challenge to the same has been made by way of filing the present petition on 22nd May, 2018.

4. In so far as the filing of the present petition before this Court is concerned, the same has been filed primarily on account of the fact that the reply to the legal notice issued by the

petitioner in the case at hand was responded to by the respondents vide their reply dated July, 2017, and had been sent to the counsel for the petitioner at his office address at Shimla.

5. Suffice it to state that the cause of action for invoking the jurisdiction of this Court is the non-selection of the petitioner in a recruitment process initiated in the year 2011 and concluded in the year 2012. The process of recruitment had been conducted at Chandigarh. So far as the reply to the legal notice dated July, 2017 (Annexure P-5/2) is concerned, the decision was taken by respondent No. 2, and its service upon the petitioner at Shimla would not give him a fresh cause of action. In this respect, reference can gainfully be made to the authoritative pronouncement of this Court in **1997 (2) SLC 72**, titled ***Brig. Malkiyat Singh Sullat vs. Union of India and others***. The relevant extract thereof reads as follow:

"16. The expression "Cause of action" as defined in Mulla's Code of Civil Procedure is:

"Cause of action means every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to judgment of the court. In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant..."

The meaning of "Cause of action" in Black's Law Dictionary (Sixth Edition) is;

"The fact or facts which give a person a right to judicial redress or A situation or relief against another. The legal effect of an occurrence in terms of redress to a party to the occurrence. state of facts which would entitle a party to sustain action and give him right to seek a judicial remedy in his behalf....."

17. In the light of the above definition and meaning of the expression "Cause of action" and the ratio of the judgments

referred to herein. above, we hold that the facts in respect of service of order dated 11-10. 1995 dismissing the statutory complaint subject to expunctions stated therein (Annexure P-18), acquisition of knowledge of the approved panel for promotion to the rank of Major General (Annexure P-19) and the service of order dated 1-7 1996 (Annexure P-22) during the pendency of the writ petition, informing the petitioner about his non-selection for pro-motion to the rank of Major General in the review Selection Board held on 24/25-4-1996 are not integral part of the cause of action for granting the reliefs sought for by the petitioner. In other words, without placing and proving these facts on record, the reliefs sought for quashing the disputed A. C. Rs. the order dated 20-4-1995 (Annexure P-16) and the order dated 11-10-1995 (Annexure P-18) can be granted besides giving directions to the respondents to consider afresh the case of the petitioner for his promotion to the rank of Major General, if succeeds on merit. The impugned A. C Rs. pertain to the period when the petitioner was posted at Damana in the State of Jammu and Kashmir wherefrom he had preferred the non-statutory complaint dated 30 9-1994 which was rejected subject to the expunctions mentioned therein by the Chief of Army Staff, whose order was communicated to the petitioner on 20-4-1995 before he joined at Shimla on his posting at Army Training Command. He was considered but not selected for promotion to the rank of Major General in the Selection Board held on 21/22-10-1994 as conveyed to him by order dated. 20-4-1995, before he joined at Shimla. So far the decision of his statutory complaint is concerned. it was taken by the Government of India, Ministry of Defence at New Delhi and its service on the petitioner at Shimla did not give him fresh cause of action. Even the fact of the reconsideration of his case by the review Selection Board on 24/25-4-1996 and the communication of its decision by a letter dated 1-7-1996 at Shimla, is not necessary for giving him relief sought for in respect of the disputed A. C, Rs, the order dated 20.4.1995 deciding the non-statutory complaint, non-selection for promotion to the rank of Major General and order dated 11-10-1995 deciding the statutory complaint dated 12-3-1995.

In the aforesaid factual and legal matrix, it is held that no part of the cause of action has arisen within the territorial jurisdiction of this Court, enabling the petitioner to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

6. The present petition has been filed in the month of May, 2018, whereas the cause of action pertains to the years 2011/2012. The claim in the case at hand is a stale claim. No

useful purpose would be served by entertaining the same. In this respect, reference can be made to **(1975) 1 SCC 152**, titled ***P.S. Sadasivaswamy vs. State of Tamil Nadu***. The relevant extract whereof reads as follow:-

“

It is not that there is any period of limitation for the Courts to exercise their powers under [Article 226](#) nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extra-ordinary powers under [Article 226](#) in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put for-ward stale claims and try to unsettle settled matters- The petitioner's petition should, therefore have been dismissed in limine. Entertaining such petitions is a waste of time of the court. It clogs the work of the Court and impedes the work of the court in considering legitimate grievances as also its normal work.”

7. As has been stated supra, on merits, the petitioner was nowhere in the reckoning. The petition, being devoid of merit, both on the aforesaid two grounds raised by way of preliminary objections and on merits, is dismissed, so also, the pending miscellaneous application(s), if any.

(Bipin Chander Negi)
Judge

27th July, 2026
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