

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.8087 of 2022 a/w
CWP Nos.7076, 8270, 8365
and 8487 of 2022
Decided on: 07.10.2026

1. CWP No.8087 of 2022

Lakhbir Singh and another

...Petitioners

Versus

State of Himachal Pradesh and others

...Respondents

2. CWP No.7076 of 2022

Sonu Kumar

...Petitioner

Versus

State of Himachal Pradesh and others

...Respondents

3. CWP No.8270 of 2022

Arish Khan and others

...Petitioners

Versus

State of Himachal Pradesh and others

...Respondents

4. CWP No.8365 of 2022

Subhash Kumar

...Petitioner

Versus

State of Himachal Pradesh and others

...Respondents

5. CWP No.8487 of 2022

Shailender Singh and others

...Petitioners

Versus

State of Himachal Pradesh and others

...Respondents

*Coram***Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge***Whether approved for reporting?*¹ Yes

For the petitioner(s):

Dr. Lalit Kumar Sharma, Ms. Anjali Soni Verma, Mr. Balwant Singh Thakur, Mr. Abhishek Dulta, Mr. Vishal Verma, Advocates and Mr. Dixit Sahotra, Advocate vice Mr. Sanjeev Kumar Suri, Advocate, in the respective petitions.

For the respondents:

Mr. Hemant Kumar Verma, Deputy Advocate General, for the respondents-State, in all the petitions.

Mr. Vinod Chauhan, Advocate, for respondent-Director of Sainik Welfare, in all the petitions.

Jiya Lal Bhardwaj, Judge (Oral)

Since common questions of law and facts are involved in all these petitions, therefore, they are taken up together for disposal and the facts of CWP No.8087 of 2022 are considered in this common judgment.

2. The facts as emerge from the pleadings are that

¹ Whether reporters of Local Papers may be allowed to see the judgment?

the petitioners were earlier enrolled in the Army and got discharged on 31.07.2019, as evident from a perusal of copy of the discharge book (Annexure P-1) (page-31) in respect of petitioner No.1 and copy of discharge book in respect of petitioner No.2 (page-33). Respondent No.2 had issued the recruitment notice for the posts of Constables on 10.09.2021 (Annexure P-5) and as per the recruitment notice total 1,334 posts were advertised. Since the petitioners after their retirement from Army had got themselves enrolled with the employment exchange(s), their candidatures were to be considered for the posts of Constable. However, as per the employment notice issued by respondent No.3 (Annexure P-3) only those Ex-Servicemen who were retired between 31.10.2019 to 31.12.2020 were called for the interview to be conducted in the office of respondent No.3 from 21.02.2022 to 28.02.2022. The petitioners in the present petition were not retired between the dates fixed in the notice and, therefore, they had approached this Court by way of CWP No.775 of 2022, titled, ***Lakhbir Singh and another versus State of Himachal Pradesh and others***. Other petitioners in the connected petitions were also not retired between

31.10.2019 to 31.12.2020 and, therefore, they had also approached this Court by way of various civil Writ petitions.

3. This Court vide judgment dated 16.09.2022 allowed the writ petitions preferred by the petitioners thereby quashing the cut-off period of discharge from 31.10.2019 to 31.12.2020 prescribed for determining the eligibility of Ex-Servicemen to the posts of Police Constables under recruitment notice dated 10.09.2021 and directed respondents No.1 and 2 and in particular respondent No.3 i.e., Directorate of Ex-Servicemen Cell, Hamirpur, Himachal Pradesh to re-visit the entire issue of fixation of cut-off period of retirement (discharge) of Ex-Servicemen for determining their eligibility to the posts of Police Constables in terms of the recruitment notice dated 10.09.2021 in accordance with the applicable Rules/Instructions/Guidelines. It was ordered that the needful shall be done within a period of two weeks from the date of passing the judgment and while re-visiting the matter of correct fixation of cut-off period of retirement of Ex-Servicemen for the purpose of determining their eligibility to the posts of Police Constables, the observations made in the judgment shall also be kept in view.

4. After the disposal of the writ petitions preferred by the petitioners, respondent No.2 passed an order on 22.10.2022 (Annexure P-10) after considering the provisions of Punjab Police Rules (in short 'PPRs') 12-24(b) and held that no relaxation can be granted and in case the extension in 2 years of discharging from Army on account of COVID-19 is granted, then it will adversely affect the efficiency in working of the Police Department being a uniformed force, as they are required to discharge the Law and Order duties. Further, in case the age criteria is relaxed in that case Rule 12-24(b) becomes redundant and rejected the representations.

5. After rejection of the representations, a corrigendum (Annexure P-11) was issued on 31.10.2022, when the initial period of discharge of the Ex-Servicemen from the armed forces, which was fixed between 31.10.2019 to 31.12.2020 was revised and it was fixed w.e.f. 31.10.2019 to 31.10.2021. Since the petitioners have been found ineligible for the reason that the period has been fixed only w.e.f. 31.10.2019 to 31.10.2021, whereas, they have retired prior to the said date, they have come up before this Court by way of these petitions.

6. The petitioners have challenged the impugned corrigendum and fixing the date cut-off date w.e.f. 31.10.2019 to 31.10.2021 *inter alia* on the grounds that the cut-off date re-fixed is in utter disregard to the clear and unambiguous observations made by this Court while deciding their petitions on 16.09.2022.

7. In CWP No.8365 of 2022, it is averred that as per the Clause 9.12 (ii) of Chapter IX of the National Employment Service Manual Volume-I (in short 'Manual') the annual list should be prepared in advance, so that it can be finalized before start of the year. The two previous years should be taken from October to September, for example for the list of 2001, the two previous years will be 01.10.1998 to 30.09.1999 and 01.10.1999 to 30.09.2000. However, while conducting recruitment process for the year 2021, the two previous years would be 01.10.2018 to 30.09.2019 and 01.10.2019 to 30.09.2020 and thus while issuing the corrigendum dated 31.10.2022, the date has wrongly been fixed w.e.f. 31.10.2019 to 31.10.2021.

8. It has further been averred that as per sub-clause (vii) of Clause 9.12 contained in Chapter IX of the National Employment Service Manual Volume-I, the left over in the

annual list, i.e. those could not be submitted or placed may be included in the next year's annual list, meaning thereby that the intention of the rule making authority is clear that no person can be denied his fundamental right of consideration for appointment and in any case if some incumbent is left out in one list, he may be included in the next list.

9. It has also been averred that the respondents have wrongly rejected the representation made by the petitioners and the petitioners could not be included in the panel, only for the reason that the cut-off date prescribed as per corrigendum dated 31.10.2022 was fixed between 31.10.2019 to 31.10.2021.

10. It has further been averred that the respondents-State, being a model employer, is under obligation to conduct itself with high probity and candour and the employer, who is duty bound to act as a model employer, has social obligation to treat an employee in an appropriate manner, so that an employee is not condemned to feel totally subservient to the situation.

11. In some of the petitions, it has been averred that the respondents had granted relaxation of two years against

all categories i.e. General, SC, ST, OBC etc, due to COVID-19, but no relaxation was granted to the Ex-Servicemen quota, which is illegal and arbitrary. Thus, prayed for quashing and setting aside the cut-off date fixed vide corrigendum dated 31.10.2022 with a further direction to the respondents to include the period w.e.f. 01.10.2018 to 30.09.2019 and 01.10.2019 to 30.09.2020 and consider them for the vacancies of the year 2020.

12. Respondents No.1 and 2 filed reply to the petition and in preliminary submissions averred that neither legal nor fundamental rights of petitioners has ever been infringed in any manner by them. The writ petition is not legally maintainable. It has also been averred that in the recruitment of Ex-Servicemen by and large, the role/function of Police Department starts only after sponsoring the name of Ex-Servicemen by the Ex-Servicemen Cell, Hamirpur. However, the appointment/selection of the Ex-Servicemen was done strictly in accordance with the R&P Rules framed by the replying respondent vis-a-vis Rule 12.24 (b) of the PPRs applicable to the State of Himachal Pradesh. It has further been averred that as per the common judgment dated 16.09.2022, this Court had concluded that

impugned cut-off period of discharge of Ex-Servicemen from Indian Army between 31.10.2019 to 31.12.2020 prescribed for the purpose of recruitment of Ex-Servicemen to the post of Police Constable does not seem to be correctly fixed and hence the said notice was quashed with a direction to respondents No.1 and 2 and in particular to respondent No.3 to re-visit the entire issue of fixation of cut-off period of retirement (discharge) of Ex-Servicemen for determining their eligibility to the posts of Police Constable in terms of recruitment notice dated 10.09.2021 in accordance with the applicable Rules/instructions/guidelines.

13. Pursuant to the judgment passed by this Court, respondent No.3 had re-fixed the cut-off date w.e.f. 31.10.2019 to 31.10.2021 instead of 31.10.2019 to 31.12.2020 for determining the eligibility of Ex-Servicemen for the post of Constable/Constable Drivers on 01.10.2022 and fixed fresh dates for interview of eligible candidates on 10/11.10.2022 respectively. Accordingly, fresh/revised district wise nominations/panel for the posts of Constable on the basis of revised cut-off date i.e. 31.10.2019 to 31.10.2021, as per the judgment of the Court, has been prepared by respondent No.3, by cancelling the earlier

panel/nomination, vide letter dated 14.10.2022. Pursuant to the communication dated 14.10.2022, replying respondents issued direction to the appointing authority on 04.02.2023 to issue appointment letters to the newly recommended/sponsored candidates, which is strictly in accordance with the judgment dated 16.09.2022.

14. It has also been averred that after due deliberations, it was decided that no relaxation can be granted in view of Rule 12.24 (b) of PPRs and as per the R&P Rules, 2013. The another factor for not considering their case for relaxation of the R&P Rules is that in case the extension in two years of discharging from Army on account of COVID-19 is granted, then it will adversely affect the efficiency in working of the Police Department being a uniformed force, as they are required to discharge the law and order duties. The representation made by the petitioners were considered and decided by passing a speaking order dated 22.10.2022 and thereafter the corrigendum has been issued on 31.10.2022.

15. On merits, it has been averred that the recruitment of Police Constables has been made as per new recruitment Rules notified on 05.08.2021 after notifying

draft rules and inviting objections in the recruitment process, which has been completed in the year 2021-2022 and thus prayed for dismissal of the writ petition.

16. Respondent No.3 filed separate reply to the petition and averred in preliminary submissions that respondent No.3 is a nominating agency, who nominates the eligible Ex-Servicemen after receiving the requisitions for various posts from the employers. In the case of recruitment in police for the posts of Police Constable and Constable Driver, cut-off date has been intimated by respondent No.2 to respondent No.3 and respondent No.3 conducted the interview for the said post accordingly. The Director General of Police, HP, Shimla, vide letter No.P-II(2) Recruitment Procedure/2010-16893 dated 23.06.2015, has fixed upper age limit as 45 years for Ex-Servicemen for enrollment in police and the break in service between the date of discharge from Army and enrollment in Police should not be more than 2 years keeping in view the job requirement of Police. Respondent No.3 had received 146 posts of Police Constable and 16 posts of Constable Driver (total 162) from Inspector General of Police, Northern Range, Inspector General of Police, Central Range and Inspector General of

Police, Southern Range. The cut-off date intimated by Respondent No.2 was 31.10.2021. As per the office of the Director General of Police, HP Shimla letter No.P-II (3) Recruitment Procedure/2010-16893 dated 23.06.2015, the break in service between the date of discharge from Army and enrollment in Police should not be more than two years keeping in view the job requirement of the Police. Hence, candidates retired between 31.10.2019 to 31.10.2021 were eligible for the said posts as per the information received from respondent No.2. Respondent No.2 had not given any age relaxation due to COVID-19 as per the requisition. After the decision on 16.09.2022 passed by this Court on a writ petition being filed by the petitioners, respondent No.3 revisited the entire process according to revised cut-off date i.e. 31.10.2019 to 31.10.2021 (24 months), which was fixed by Police Department vide letter number dated 07.10.2022. Further in pursuance of the direction given by this Court, respondent No.3 conducted the fresh interview/screening of documents for the posts of Police Constable on 10.10.2022 and 11.10.2022 along with petitioners and prepared annual panel on the basis of calendar year. As per the panel seniority eligible Ex-Servicemen have been nominated as

per the requisitions received from the Districts SSPs and appointment to the nominated candidates will be given by the concerned employer after verification of their all relevant documents. The petitioners retired from Army on 31.07.2019 and they were not found eligible according to revised cut off date i.e. 31.10.2019 to 31.10.2021 and as per the Himachal Pradesh Police Notification dated 23.06.2015, they are not eligible for the posts of Police Constables/Drivers since break in service between the date of discharge from Army and enrolment in Police is more than two years and as such prayed for dismissal of the writ petition.

17. The petitioners filed rejoinders to the replies filed by the respondents and reiterated the averments made in the writ petition.

18. I have heard learned counsel representing the petitioners as well as learned counsel representing the respondents and also perused the record carefully.

19. Before adverting to the submissions made by learned counsel representing the parties, it is apt to take note of the writ petitions and the retirement of the petitioners from Indian Army which is as under:-

"CWP No. 8087 of 2022

<i>Sr. No.</i>	<i>Name of the petitioner</i>	<i>Date of retirement from Army</i>	<i>Date of Registration in Employment Exchange</i>
1.	Lakhbir Singh	31.07.2019	16.08.2019
2.	Virender Singh	31.07.2019	13.08.2019

CWP No. 7076 of 2022

<i>Sr. No.</i>	<i>Name of the petitioner</i>	<i>Date of retirement from Army</i>	<i>Date of Registration in Employment Exchange</i>
1.	Sonu Kumar	30.04.2018	06.11.2019

CWP No. 8270 of 2022

<i>Sr. No.</i>	<i>Name of the petitioner</i>	<i>Date of retirement from Army</i>	<i>Date of Registration in Employment Exchange</i>
1.	Arish Khan	30.04.2019	01.08.2019
2.	Chatter Singh	31.05.2018	05.06.2018
3.	Shyam Singh	31.10.2018	01.01.2019
4.	Manjeet	31.10.2019	10.12.2020
5.	Jitender Kumar	31.07.2019	21.08.2019
6.	Jagdish Kumar	30.09.2019	31.10.2019
7.	Chander Mohan	31.01.2018	07.02.2018
8.	Anoop Kumar	31.07.2018	06.08.2018

CWP No. 8365 of 2022

<i>Sr. No.</i>	<i>Name of the petitioner</i>	<i>Date of retirement from Army</i>	<i>Date of Registration in Employment Exchange</i>
1.	Subhash Kumar	31.12.2018	21.09.2019

CWP No. 8487 of 2022

<i>Sr. No.</i>	<i>Name of the petitioner</i>	<i>Date of retirement from Army</i>	<i>Date of Registration in Employment Exchange</i>
1.	Shailender Singh	30.04.2018	20.06.2018
2.	Vinod Kumar	31.08.2019	06.09.2019
3.	Rajinder Kumar	31.08.2019	11.09.2019

20. The dates of retirements of the petitioners fall between the period from 31.01.2018 to 31.10.2019. As per the corrigendum dated 31.10.2022, the Ex-Servicemen, who were retired between 31.10.2019 to 31.10.2021 were only eligible for recruitment to the post of Constable and since the petitioners were not falling between the aforesaid period, they were not interviewed for the post of Constable. As per the National Employment Service Manual Volume-I, (page 53), the procedure for selection of the applicants has been prescribed in detail. The relevant provision of Chapter IX of the Manual which is contained in Clause 9.12 is reproduced hereunder:-

“Selection for submission-Guidance Points

9.12 For submission purposes , annual list of candidates will be prepared. This list will contain the following items:-

- 1. Serial Number*
- 2. Registration Number and NCO Code number*
- 3. Date of Registration*

4. Name and address
5. Date of Birth
6. Educational qualifications
7. Experience
8. Remarks

The following points may be kept in view while preparing the annual list:-

(i) The 'Annual List' will be prepared in respect of all those occupations for which vacancies were notified to the Employment Exchange during the past two years.

(ii) The annual list should be prepared in advance so that it could be finalised before start of the year. The two previous years should be taken from October to September, for example for the list for 2001 the two previous years will be 1 October 1998 to 30th September 1999 and 1 October 1999 to 30th September 2000.

(iii) The number of candidates in the annual list for a particular occupation should be 20 time the average number of vacancies received in the past two years. The number should be further inflated by 10 per cent to allow the additional demands. However, size of the list is left to the discretion of the State Directors of Employment, who will issue necessary instructions to Employment Exchanges in their States.

(iv) The provisional list so drawn may be given wide publicity through local leading News-papers and displaying it on the Notice Board in the Employment Exchange premises to enable the candidates to point out omissions, if any within a period of 30 days. For giving publicity to the 'Annual List' information about the dates of seniority up to which the candidates are covered in the list in different occupations and not the entire list will be published through newspapers.

(v) The final list may be displayed in the Employment Exchange and one copy may be kept in the safe custody of the Employment Officer In-charge of vacancy work.

(vi) The annual list so drawn will be valid for one

calendar year. No changes in the annual list should be made until the end of the year.

(vii) The leftover in the annual list, i.e. those who could not be submitted or placed, may be included in the next year's annual list.

(viii) Registration cards received on transfer from one Employment Exchange to another, shall be given due seniority for inclusion of their names, in the select list even after the same has been prepared.

(ix) Submission should be made in order of seniority from the select list.

(x) The submission against private-sector vacancies should be made out of the annual list without observing seniority. In other words, the private-sector employers may be given freedom to select anyone from the annual list for interview/selection. Similarly employers in public sector may also have freedom to select applicants from the annual list. However, they will have to lay down a scheme of selection in consultation with employment Officer, before selecting applicants.

(xi) In case of shortage categories, or where the number of candidates on the Select List are relatively smaller, submission from the Live register can be resorted to. It should be ensured that all the cards are available on the Live Register while making submissions.

(xii) Every candidate on the Select List should be given at least three chances of submission against public sector vacancies of regular/long term nature(i.e., Government/Quasi Government including local bodies organizations). There should be a gap of one month between two submissions. However, where there is evident to show that the submission made earlier, has not been entertained by the employer, for whatever reason or the applicant has not been selected, submission before one month can also be made.

(xiii) After a candidates has been given 3 chances of submission as referred to above his name should be kept dormant for six months. The period of dormancy

after submission of candidates three times against public sector vacancies of regular/long term nature may be decided by the State Director of Employment keeping in view the size of Live Register and other local conditions.

(xiv) The card of the candidate kept dormant, shall be suitably identified, by a tab indicating on it the date of his last submission.

(xv) For private sector vacancies and specific short-term, leave arrangement/casual/daily wages vacancies in the Public Sector, restrictions for submission in the scheme of rotation will not apply. In other words, such vacancies will not be counted for this purpose.

(xvi) If the name of a candidate has been kept dormant, he will continue to be submitted against private sector vacancies, as for this sector, it is more a question of job development and winning their confidence for better utilization of employment exchanges.

(xvii) If a particular card is lapsed/cancelled/placed, entry to this effect will also be made against the concerned registration number."

21. As per sub-clause (ii) of Clause 9.12, the annual list should be prepared in advance so that it could be finalized before start of the year. The two previous years should be taken from October to September, for example for the list of 2001, the two previous years will be 01.10.1998 to 30.09.1999 and 01.10.1999 to 30.09.2000. As per sub-clause (vii), the leftover in the annual list, i.e. those who could not be submitted or placed, may be included in the next year's annual list.

22. In the present case, the recruitment notice was issued by respondent No.2 on 10.09.2021 and as per sub-clause (ii) of Clause 9.12, the period of two previous years should be from 01.10.2018 to 30.09.2019 and 01.10.2019 to 30.09.2020. If two previous years are taken, then as per the criteria stipulated in the National Employment Service Manual, the cut-off date ought to have been fixed between 01.10.2018 to 31.10.2020 and since most of the petitioners were discharged between these two dates, they could not have been debarred to participate in the process for recruitment to the posts of Constable.

23. Learned counsel for the petitioners have vehemently argued that respondent No.2 has wrongly applied the provisions of Rule 12.24(b) of the PPRs to come to the conclusion that the two years of discharge from Army has to be construed prior to the last date fixed in the recruitment notice.

24. Before adverting to the submission made by the learned counsel for the petitioners, it would be apt to reproduce relevant provisions of Rule 12.24(b) of the PPRs which reads as under:-

“The minimum age limit for recruitment of Ex. Servicemen in the rank of Constable in the Police Department shall be 45 years, if they present themselves for re-enrollment and are found medically fit within 2 years of voluntary taking their discharge.”

25. Learned counsel for the petitioners have relied upon the judgment passed by a Division Bench of this Court in CWP No.2460 of 2020, titled, **Rajesh Kumar vs. State of H.P. and Ors.**, wherein this very Rule has been considered and it was held that the rejection of the claim of the petitioner in that case on the ground that he is ineligible as duration of gap from the date of discharge to the cut-off date is more than two years i.e. two years and one day, is erroneous interpretation of the Rule and defeat the object of the reservation provided for Ex-Servicemen. It was also held that once the Rule 12.24(1) of the Punjab Police Rules, 1934, as applicable to the State of Himachal Pradesh, which was a *pari materia* rule as incorporated by the respondents, has already been struck down, the same provision could not have been inserted. The relevant para of the judgment reads as under:-

“11. Now further question is whether the respondents were right in rejecting the claim of the petitioner on the ground that he is ineligible as duration of gap from the date of discharge to

the cut off date is more than 2 years i.e. 2 years and 1 day.

12. Rule 12.24(1) of the Punjab Police Rules, 1934, as applicable to the State of Himachal Pradesh was amended vide notification No. HOME-A-A(3)-4/2011, dated 24.5.2013 and the same reads as under:

"2 In rule 12.24(1) of the Punjab Police Rules, 1934, in their application to the State of Himachal Pradesh, for clause (b) the following shall be substituted, namely:-

(b) The maximum age limit for recruitment of Ex-Servicemen in the rank of Constable in the Police Department shall be 45 years, if they present themselves for re-enrollment and are found medically fit within two years of voluntarily taking their discharge.

13. It appears that this Rule has been totally mis-construed by the respondents as requirement of the Rule is - (i) an ex-serviceman should, for the purpose of recruitment, be less than 45 years of age; (ii) should have presented himself for re-enrollment; and (iii) found medically fit within two years of voluntarily taking his discharge.

Whereas, the case of the petitioner has been rejected on the ground that duration of the gap from the date of discharge to the cut off date is more than 2 years and is rather 2 years and 1 day as calculated here-in-above. The Rule only contemplates that the re-enrollment should be within 2 years and nothing more.

14. To say the least, interpretation placed by the respondents on the aforesaid Rule is erroneous and defeats the object of the reservation provided for Ex-Servicemen.

15. Even otherwise, cut off date prescribed in the advertisement is only for the purpose of

calculating the upper and lower age limit of the candidates as would be evident from the clause, which reads as under:-

"The cut off date for calculation of upper and lower age limit of the candidates will be 1.1.2019 for all categories."

16. In addition to the aforesaid, we really wonder why the State of Himachal Pradesh has amended the Police Rules by incorporating therein the aforesaid Rule that too when a *pari materia* Rule had already been struck down earlier by the Punjab and Haryana High Court in **Sukhwinder Singh & ors. vs. State of Punjab & ors., 2014 (1) ILR (P&H) 5114** by observing as under:-

"Rule 12.24 sub clause (1) of the Punjab Police Rules, 1934 is couched in the following terms:-

"12.24 Enlistment of ex-soldiers, reservists and ex-police officers.

(1) Re-enrolment in the rank of constable is permitted and past service will count for pension under the following conditions, and subject to the further conditions as to pensions contained in rules 9.2 and 9.29:-

(a) Ex-soldiers of the Indian Army and ex-members of police forces (including Military Police), paid for from the general revenues of India, may be enlisted as constables on production of a discharge certificate showing their previous service to have fulfill the physical and other standards required by these rules for first appointments. They must also be passed medically fit by the same standards as are applied to recruits.

(b) Age of the date of enrolment in the police must be below 30, but ex-Punjab

police officers, and, with the special sanction of the Inspector-General in each case, ex-soldiers and ex-members of other police forces may be re-enlisted up to the age of 55, if they present themselves for re-enrolment and are found medically fit within two years of their discharge.

(c) The break of service between the date of enrolment in the police and the date of discharge from previous army employ shall not exceed two years, and there must not have been more than two breaks of service in all.

(d) No claim to count previous service for pension shall be allowed unless the previous service claimed was declared and verified at the time of enrolment in the police.

(e) Service in a body of additional police shall be counted for increments in the case of a constable transferred to the regular force immediately on such transfer."

A perusal of the statutory provisions reproduced herein above would make it clear that ex-service man under the 1982 Rules stands defined. It is not disputed that the present petitioners fell under such definition of ex-service man. The extent of application of the 1982 Rules is to all State Civil Services of posts connected with the affairs of State of Punjab except the Punjab Vidhan Sabha Secretarial Services and the Punjab Superior Judicial Service. Under Rule 4 of the 1982 Rules 13% of the vacancies are to be reserved for ex-service men to be filled by direct appointment in all the State Civil Services. It is in terms of Rule 4 of the 1982 Rules that the necessary reservation of 13% had been provided in the

advertisement dated 12.9.2010 (Annexure P-7) for recruitment to the post of Male Constable in the Punjab District Police Cadre. Rule 6 governs the question of age and clearly stipulates that for purposes of recruitment to any vacancy in the State Civil Services, an ex-service man shall be allowed to deduct the period of his service in the Armed Forces of the Union from his actual age and if the resultant age does not exceed the maximum age limit provided for such direct appointment in the concerned service rules by more than 3 years he shall be deemed to satisfy the condition regarding the age limit. Rule 9 mandates that with regard to matters not specifically provided for in the 1982 Rules in such eventuality an ex-service man appointed against a reserved vacancy would be governed by the concerned service rules. However, all concerned service rules would be subject to the provisions of the 1982 Rules and would be construed accordingly.

Rule 12.24 sub clause (1) of the Punjab Police Rules, 1934 is on the subject of enrollment of ex-soldiers, reservists and ex police officers and lays down conditions as regards re-enrollment in the rank of Constable. Rule 12.24 sub clause sub clause (c) on the strength of which the offending clause in clause 4 (b) of the advertisement is sought to be justified stipulates that a break of service between the date of enrollment in the police and date of discharge from previous army employment shall not exceed two years and there must not have been more than two breaks in service in all.

At the very outset, it requires notice that Rule 12.24 and the conditions contained

therein regulate re-enrollment in the rank of Constable in respect of ex soldier, reservists and ex police officers. The provisions contained in Rule 12.24 would not hold the field in so far as the fresh recruitment to the post of Male Constable in the Punjab District Police Cadre is concerned. To such extent the reliance placed upon Rule 12.24 clause (1) sub clause (c) of the Punjab Police Rules, 1934 to justify the stipulation contained in the later part of clause 4 sub clause (b) of the advertisement dated 12.9.2010 as regards the gap between re-employment and discharge from service to be not more than 24 months is clearly misconceived.

Even otherwise, the very purpose and objective of promulgation of the 1982 Rules was as regards rehabilitation of ex-service men in terms of consideration of their claim for recruitment to the State Civil Services and posts connected with the affairs of the State of Punjab and towards such objective providing for reservation as also relaxation of age. Even if, it was to be accepted that the offending part of clause 4 sub clause (b) is on the strength of Rule 12.24 clause (1) sub clause (c) of the Punjab Police Rules, 1934, still the same cannot be permitted to operate as the same would defeat the very objective for which the relaxation in age had been provided to the ex-service men and would in fact frustrate the 1982 Rules itself. The petitioners in the light of the relaxation provided under Rule 6 of the 1982 Rules and in terms thereof by deducting the period of their service in the Armed Forces and the resultant age not exceeding the maximum age limit prescribed in the advertisement i.e. 25 years by more than 3 years are clearly vested with a right for consideration for recruitment to the post of

Male Constable subject to the other eligibility conditions as regards qualifications etc. as also strictly in order of merit determined in the recruitment/selection process. The later part of clause 4 sub clause (b) cannot operate to the detriment and prejudice of the rights of the petitioners for recruitment to the post in question so as to take away the benefit of age relaxation as provided in terms of clause 4 sub clause (b) as also Rule 6 of the 1982 Rules. In law the offending later part of clause 4 sub clause (b) cannot be permitted to hold the field so as to render earlier portion of relaxation under the relevant clause to be redundant. It would require notice that Rule 12.24 of the Punjab Police Rules, 1934 was already in the statute book while promulgating the 1982 Rules which were in the nature of a beneficial legislation in favour of the ex-service men. Even though, it has been held that Rule 12.24 clause 1 sub clause (c) of the Punjab Police Rules, 1934 hold the field only as regards re-enrollment to the post of Constable and would have no applicability as regards fresh recruitment to the post of Constable for vacancies reserved for ex-service men are concerned, still both the provisions would have to be read harmoniously so as to ensure that the object sought to be achieved in terms of the age relaxation provided under Rule 6 of the 1982 Rules is in fact achieved. The 1982 Rules would have to be construed in the nature of a particular provision governing the category of ex-service men, whereas Rule 12.24 of the Punjab Police Rules are in the nature of general provisions. In the light of the facts of the present case the particular provisions would be held to be overriding the general provisions. Rule 9 of the 1982 Rules

crystalize the matter further as it is mandated that for all such matters not specifically provided for in the 1982 Rules, an ex-service man appointed against a reserved vacancy would be governed by the concerned service rules. The subject of age and relaxation in terms thereof has been specifically provided for under the 1982 Rules and as such in terms of Rule 9 sub clause (2) the concerned service rules i.e the Punjab Police Rules, 1934 would have to be read subject to the provisions of the 1982 Rules and are required to be construed accordingly.

For the reasons recorded above, the later part of clause 4 sub clause (b) in the advertisement dated 12.9.2010 (Annexure p-7) which read in the following terms;

"Inspite of this, the gap between re-employment and discharge service should not be more than 24 months (2 years)." is held to be bad in law and consequently would cease to operate in so far as the claim of the ex-service men for consideration of the claim for recruitment to the post in question is concerned. Resultantly, the process of selection/recruitment shall be finalized and the claim of the petitioners, who had been permitted to participate in the selection process in terms of passing of interim order, would be considered strictly in terms of the other stipulations contained in the advertisement and as per their merit determined. The petitioners, however, will not be considered ineligible only on account of the gap between discharge from army service and seeking employment in the Punjab District Police Cadre to be in excess of 24 months.

17. Similar issue has already been considered by this Court in **CWP No. 1494/2020, titled as Ex.**

Hav. Balwan Singh vs. State of H.P. & ors. and connected matters, decided on 17.8.2020.

18. In view of the aforesaid discussion, we find merit in the instant petition and the same is accordingly allowed. The impugned letter dated 9.3.2020, Annexure P-5 and letter dated 15.7.2020 (Annexure R/8) whereby the candidature of the petitioner has been found ineligible for the post of Constable reserved for Ex-Servicemen, are quashed and set-aside and consequently, the respondents are directed to give appointment to the petitioner for the post of Constable in the Department. Pending application(s), if any, also stands disposed of."

26. Learned counsel representing the respondents have vehemently argued that as per the decision taken by the respondents, the cut-off date of 2 years prior to 31.10.2021 has rightly been taken as per the provisions of the Manual and further as per the Rule more particularly 12.24(b) of the PPRs. No illegality can be found with the corrigendum issued by respondent No.2, when it has fixed the date between 31.10.2019 to 31.10.2021. However, the said contention cannot be accepted in view of the clear cut procedure prescribed in the Manual and even an example has been given to determine the date for the purpose of considering the candidature of the person for appointment. In the present case, the recruitment process was started as per the notice dated 10.09.2021 and in the illustration given

in the Manual, the list for 2001 was taken and if the principle and the illustration given in the Manual is taken, the date for eligibility of Army Personnel who have retired between 01.10.2018 to 30.09.2020 is to be considered and respondent No.2 has wrongly taken the date 1 year and 1 month in advance while issuing the corrigendum, which is totally contrary to the procedure prescribed in the National Employment Service Manual.

27. So far as the Rule upon which the respondents have harped on while rejecting the representation of the petitioners and also contesting the claim raised by the petitioners, is concerned, once this Court has already come to the conclusion that 2 years of voluntarily taking the discharge cannot be construed for the purpose of making recruitment and the Rule only contemplates that the re-enrollment should be within 2 years and nothing more. In the present case, the petitioners, who had been discharged from the Army between 01.10.2018 to 30.09.2020 were eligible for recruitment to the posts of Constable and in case the cut-off date as fixed by respondent No.2 is taken, it will not only defeat the procedure prescribed in the manual, but also deny the chance to the petitioners for their re-

employment after serving in the Armed Forces.

28. Respondent No.2 had issued the corrigendum dated 31.10.2022 and the petitioners immediately thereafter had approached this Court, by way of instant petitions.

29. Learned counsel representing the petitioners submits that all the petitioners except the petitioner in CWP No.7076 of 2022, have been interviewed, but they have not been offered the appointment only for the reason that the litigation is pending adjudication before this Court. Since this Court has now come to the conclusion that the date fixed by the respondents for the purpose of discharge is contrary to the Manual and thus the same is quashed and the Army personnel, who have discharged between 01.10.2018 to 30.09.2020, as per the mandate contained in the Manual are held eligible and they shall be offered the appointment to the posts of Constable even if they have crossed the age of 45 years from the date when other persons have been recommended for appointment.

30. Learned counsel in some of the petitions argued that as per sub-clause (vii) of Clause 9.12 of the Manual, the petitioners who could not find their place in the annual list,

ought to have been included in the next year's annual list and as such, their candidature can be considered for appointment when they have been discharged before 01.10.2018. The said argument cannot be accepted for the reason that as per the Manual, only two previous years can be taken to prepare the annual list. Since two previous years are between 01.10.2018 to 30.09.2020, only those Army personnel who retired in between these two dates can only be considered for appointment as Police Constables.

31. Learned counsel for the petitioners also argued that the petitioners should be given relaxation as given to other categories, i.e. General category, SC/ST, OBC etc., on account of COVID-19. The said argument is also rejected for the reason that as per the Manual, two previous years have been prescribed to prepare the list and as such no relaxation can be granted to them.

32. Consequently, the present petition(s) are allowed and the corrigendum dated 31.10.2022 issued by respondent No.2 (Annexure P-11 in CWP No.8087 of 2022) is quashed and set aside and the respondents are directed to offer appointment to the petitioners in case they have been discharged from Army between 01.10.2018 to 30.09.2020,

even if they have crossed the age of 45. However, it is made clear that in case any of the petitioners is found ineligible on account of medical grounds, the respondents are at liberty not to offer him appointment. Since, the petitioners are litigating in the Court, they shall be offered the appointment from the date when the other persons have been recommended, with all consequential benefits, except monetary benefits, which shall be paid notionally. However, their seniority shall be fixed/determined strictly as per their merit vis-à-vis other persons, who have been selected in the process. Respondent No.3 is directed to send the requisition to respondent No.2 within a month from today and thereafter within one month respondent No.2 shall offer appointment to the eligible petitioners. This entire exercise shall be done within two months from today. No order as to costs. Pending application(s), if any, also stand disposed of.

07th October, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**