

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. Civil Writ Petition No.15584 of 2012
Date of decision: 16.11.2015

Jatinder Kumar ...Petitioner

Versus

State of Punjab and others ...Respondents

2. Civil Writ Petition No.15596 of 2012

Rajdeep Singh ...Petitioner

Versus

State of Punjab and others ...Respondents

3. Civil Writ Petition No.15669 of 2012

Rakesh Kumar ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. S.K.Chawla, Advocate for the petitioner(s).

Mr. L.S.Virk, Additional Advocate General,
Punjab for the respondents.

G.S.SANDHAWALIA, J. (Oral)

This order shall dispose of Civil Writ Petitions No.15584, 15596 and 15669 of 2012 as common question of facts and law are involved in these three writ petitions. However, for dictating the judgment, the facts have been taken from Civil Writ Petition No.15584 of 2012.

Prayer in the present writ petition is for quashment of recruitment of private respondents as Constables in the Punjab Police made vide Annexure P/12 and P/13 on account of the fact that though they are less meritorious but they have been appointed as Constables in the District Police, Faridkot. Challenge has also been raised to the letter dated 19.2.2012 (sic 19.3.2010 (Annexure P/15) whereby instructions have been issued by respondent that at the time of preparation of merit list, if marks of two or more candidates are found to be equal, then preference should be given to candidate younger in age. It is the case of the petitioner that he

has obtained 28 marks and came at Serial no.3 of order in merit but candidates have been selected on account of the above preference given in accordance with the said instructions being younger in age.

In the written statement filed by respondents no.1 to 3, it is submitted that the petitioner had applied in general category as per his application form though it has been averred that he belongs to BC community. The petitioner was at serial no.166 in the merit list and last candidate was at serial no.117.

A perusal of the merit list attached as Annexure R/2 would go on to show that the petitioner, was at serial no.166 in the merit list and his date of birth is 4.2.1986 whereas the date of birth of the last candidate selected who was at serial no.117 in the merit list is 13.7.1991. Thus, interse between two candidates 50 more candidates have also secured 28 marks. The preference has been given to the candidate who is more than 4 years younger in age as per instructions dated 19.3.2010 and which is subject matter of challenge.

The said instructions were also subject matter of challenge in **Civil Writ Petition No.1889 of 2012-Savitoj Singh Vs. State of Punjab and others** decided on 22.5.2013 in which the argument was repelled that persons older in age having lessor chance of further selection should be given preference. It was held that the person younger in age is more energetic as compared to the older one and the post of Constable requires more physical activity. Relevant observations read as under:-

“According to this clause while preparing the merit list if two or more candidates score equal marks, then candidate younger in age will be preferred over the older. These instructions operate at a stage of selection and infact at the last stage of selection when the merit has to be determined and that too in a situation where two or more candidates have scored equal marks in the selection process. The justification and the logic for giving preference to a younger candidate over the older is quite reasonable and just as younger in age is much energetic has better reflexes and can respond to the call of service in a better manner than older in age. A police constable has to perform various duties and responsibilities and for which these traits if made the basis for preparing the merit list, cannot be overlooked or can be said to be unreasonable or unjust. There being nothing arbitrary with regard to determination of the merit on the basis of age, the said instructions are in accordance with law nor are they in conflict with Rule 12.2(3) of the rules.

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In view of above, challenge to the instructions dated 19.3.2010 (Annexure P/5) issued by the Director General of Police (respondent no. 2) is hereby rejected. Selection and appointment of respondents no.6 to 9 on the basis of instructions dated 19.3.2010 (Annexure P/5) is upheld.

The writ petition, therefore, stands dismissed.”

Accordingly, in view of the decision taken by this Court in **Savitoj Singh's case** (supra), the challenge raised is squarely covered against the petitioner.

The specific averment was made in the written statement that the backward class certificate was submitted after expiry of six months from the last date of submitting applications. Therefore, consideration would have only been done in general category. In such circumstances, there is no scope for interference.

Accordingly, all the three writ petitions are dismissed.

A photo copy of this order be placed on the record of each connected case file.

November 16, 2015
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(G.S.SANDHAWALIA)
Judge