

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

L.P.A. No. 1152 of 2015 (O&M)

Date of Decision: September 03, 2015

The State of Punjab and others

... .Appellants

Versus

Ankur Verma and others

....Respondents

**CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL
HON'BLE MR.JUSTICE MAHAVIR S. CHAUHAN**

Present: Mr. Vinod S. Bhardwaj, Addl. A.G., Punjab,
for the appellants.

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SATISH KUMAR MITTAL, J.

The State of Punjab and others have filed this intra-court appeal under Clause X of the Letters Patent against the order dated 30.09.2014 passed by the learned Single Judge, whereby the writ petition (CWP No.19652 of 2013) filed by respondents No.1 to 7 was disposed of with a direction to the appellants to consider their claim of appointment against the unfilled vacant posts according to their merit determined in the selection, within a period of one month from the date of receipt of certified copy of the order.

Though this appeal is barred by limitation, and along with the appeal, the appellants have filed an application (CM No.2437 of 2015) for condonation of 274 days' delay in filing the appeal, yet without taking the

said delay into consideration, we have heard the learned counsel for the appellants on merits and gone through the impugned order passed by the learned Single Judge.

On August 06, 2015 when the appeal was taken up for motion hearing, the following order was passed:-

“It has been argued that recruitment of Constables (District Police Cadre) in Punjab Police is to be made according to the Standing Order No.1 of 2010 (Annexure A-3). It has further been argued that a waiting list of 10% candidates of the total number of vacancies was to be prepared. In order to assess the workability of preparing the aforesaid waiting list, it is necessary to know as to whether recruitment of Constables in all the Districts of the State of Punjab was done on the same date simultaneously, as required in Clause 7 of the aforesaid Standing Order. In view of this situation, learned counsel for the applicants/appellants seeks time to supply the following information:-

- (i) Whether recruitment of Constables in all the Districts of the State was done on the same date simultaneously?
- (ii) District-wise information, where the candidates selected for a particular district have joined in other districts, and due to that how many posts remained pending, which could be filled up from the candidates put in the waiting list ?

Adjourned to September 03, 2015.”

In response to the said order, the affidavit of Superintendent of Police, Headquarter, SAS Nagar has been filed on behalf of the appellants. In the affidavit, it has been stated that recruitment of Constables in all districts of State was not done on the same date simultaneously. As per the affidavit, the detail of the candidates selected for a particular district, but

joined in other districts, has also been given. This information indicates that many posts remained vacant in the districts because the selected candidates in those districts have joined the other districts. On those remaining unfilled posts, the persons from the select list who are falling beyond 10% have not been appointed. As far as district SAS Nagar is concerned, it has been stated that out of 166 selected candidates, 37 candidates did not join the said district as they were selected in other districts and against those 37 unfilled posts, only 20 posts being 10% of the 200 posts in the district, have been filled up from the waiting list, but 17 posts are still lying unfilled because the candidates selected in particular district have joined in other districts. In light of these facts, we have heard the learned counsel for the appellants.

It has not been disputed that the recruitment of Constables in District Police Cadre in Punjab Police is to be made according to the Standing Order No.1 of 2010, copy of which has been annexed as Annexure A-3. As per Clause 7 of the said Standing Order, recruitment of Constables in all the districts in State of Punjab was to be done on the same date simultaneously and as per the same Standing Order, a waiting list of 10% candidates from each category of the total number of vacancies was to be prepared. Since the appellants in this case have not adhered to Clause 7 of the aforesaid Standing Order and made the recruitment of Constables in all the districts of the State of Punjab on the different dates, therefore, some candidates were selected in different districts, but they have joined in one district. Resultantly, when such selected candidates joined a particular district, the number of posts remained unfilled in other districts where they have also been selected but did not join. In such situation, if the waiting list

is restricted up to 10% of the total number of posts, then the meritorious candidates beyond 10% will be deprived of the selection if they are not permitted to be appointed on the vacant list though they fall under the merit list. In the present case, 20 candidates were kept in the waiting list being 10% of the total number of posts, whereas 37 posts remained unfilled, therefore, to restrict the waiting list up to 20 is unreasonable, particularly when the appellants did not adhere to Clause 7 of the aforesaid Standing order. This action of the appellants has deprived 17 candidates, who though fall under the merit list, but are not being given appointment on the ground that they are beyond the waiting list of 20. Thus, in our view the appellants cannot deny the consideration of appointment to the candidates who are in merit in the said selection while confining the claim of selected candidates in the waiting list up to 10% of the total number of posts. In these facts, the learned Single Judge has rightly directed the appellants to consider the claim of the respondents according to their merit in the event of posts lying vacant and remaining unfilled. Hence, we do not find any merit in the appeal and the same is hereby dismissed.

(SATISH KUMAR MITTAL)
JUDGE

September 03, 2015
vkg

(MAHAVIR S. CHAUHAN)
JUDGE