

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

CWP No.1253 of 2016

Date of decision: 21.1.2016

Sarabjit Singh

... Petitioner

Versus

State of Punjab & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Gagan Pradeep Singh Bal, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

1. The petitioner has staked his claim for appointment as a Constable in the Punjab Police under the Wards Category. His father serves as a Head Constable in District Muktsar. As per instructions dated September 10, 2010 issued by the Punjab Government, 2% posts of Constables are to be filled up by eligible Wards of policemen and thus, a total of 8 numbers of posts were allocated to this special category by way of direct recruitment. The posts were advertised amongst other categories including the general category in an extensive recruitment drive initiated by the police department. The selection process has resulted in failure of the petitioner to make the grade in the list of successful candidates displayed for enlistment as Constables in District Police, Sri Muktsar Sahib amongst other districts in the State of Punjab.

2. The petitioner claims that he secured a total of 25 marks as against 23 marks secured by respondent No.5, who has been selected. It is agitated that the father of respondent No.5 was serving in the Selection

Cell for the District Sri Muktsar Sahib while one Sh. Shokaran, son of Ranjeev Singh, is official driver of the Senior Superintendent of Police, Sri Muktsar Sahib and hence there is favoritism eminently writ large on the face of selection rendering it unfair. Dissatisfied, the disputed selection lead to representation filed by the petitioner which non-statutory memorial has been dismissed vide order dated October 29, 2012 passed by the competent authority against which the present petition has been filed in 2016.

3. The claim arises out of the advertisement published in newspapers i.e. Tribune, Punjab Kesari etc. dated September 11, 2010 advertising 5678 posts of Constables out of which 388 posts were allocated to District Muktsar Sahib. Clause 4 of the advertisement deals with the eligibility criteria and confers rights on Police Wards belonging to the following categories that are covered by the scheme. The provision reads as follows:-

“i) Who have suffered casualty of one or more of the following relatives on the anti-terrorist front (a) Father (b) Mother (c) Sister/brother (d) Son/daughter (e) Any other dependent family member (ii) who have suffered permanent disability on account of action against terrorists or attack by terrorist (iii) who have been awarded President's Police Medal for Gallantry or Police Medal for Gallantry for showing bravery in action(s) against terrorists (iv) who have taken part in at least 3 encounters with terrorists (v) who otherwise in the opinion of the Director General of Police have been in forefront of flight against terrorism (Children means dependent) son, daughter, brother and sister or any other dependent family

4. The criteria is broken up into a selection process comprising three phases which include Physical Measurement, Physical Efficiency Test and Interview. The petitioner approached this Court in CWP No.11304 of 2012 aggrieved by non-selection which petition was disposed of on May 31, 2012 with directions to consider the case of the petitioner by passing an order in writing. Accordingly, the petitioner applied for reconsideration of his case on grounds taken.

5. In short, the petitioner has compared himself with Mangaldeep Singh who was included in Police Wards category and was lower in merit. The record shows that the petitioner had applied for the post of Constable under the advertisement on the basis of reservation meant for members of the scheduled caste category. He wants to be included in the category of Police Wards. The conditions precedent in the letter dated September 10, 2012 issued by the Director General of Police, Punjab, were to be adhered to but the petitioner did not produce any evidence in his application form regarding fulfilling the said condition due to which reason the petitioner's name was not considered in the Police Wards Category. On the other hand, Mangaldeep Singh applied in the Police Wards Category and had been duly considered and selected in the said category. However, one Ranjit Singh son of Dilbag Singh approached this Court in CWP No.13454 of 2010 claiming that no appointment be made against 2% reserved posts for Police Wards in direct enrolment as Constable, ASI and Inspector rank Police Officers and in compliance of the interim orders issued by this Court, the appointment

of Mangaldeep Singh was stayed. As a result, the claim of the petitioner based on the case of Mangaldeep Singh has been rejected.

6. If this is the position and Mangaldeep Singh has not been appointed and if appointed, the appointment has been stayed by Court order it would not furnish sufficient reason to issue a direction to the State to appoint the petitioner merely on account of fact that he secured more marks than Mangaldeep Singh. It may be recorded that this Court checked out the status of CWP No.13454 of 2010 on the website of this Court which refers to some other case decided on August 17, 2012 in Daman Kumar vs. Punjab University & ors. which has nothing to do with this case. Even the petitioner has made no effort to raise this issue as a ground in this petition. Since it has not been explained it is taken that the writ number is a typographical error in the impugned order, however, the name of the petitioner Ranjit Singh son of Dilbagh Singh is duly mentioned and is therefore traceable from the record of this Court. Even accepting the position that Mangaldeep Singh's appointment has been stayed as the correct position, still no interference is called for in this case. There is another reason why this Court would not interfere in the matter, which is that against the selections made under the advertisement of 2010 and the process having concluded, the petitioner has approached the Court for the first time in the writ petition filed in the year 2012. Directions issued therein without determining rights do not create a fresh cause of action as explained by the Supreme Court in **State of Uttranchal v. Shiv Charan Singh Bhandari**, (2013) 12 SCC 179.

7. Moreover, the order impugned was passed on October 29,

2012 rejecting the claim of the petitioner and the present petition has been filed in January 2016 after more than 3 years of delay, laches and limitation measured from the date of selection process, which is 5 years ago calling that order into question. In the matter of direct recruitment parties are required to approach this Court without unreasonable delay and when the period prescribed for bringing a suit on the same cause of action has expired, it would ordinarily not be prudent for the Writ Court to issue affirmative directions as explained by the Supreme Court in **State of Madhya Pradesh v. Bhailal Bhai**, [AIR 1964 SC 1006] though in a different context while still the universal principle of law applies in the present context situation of inordinate delay and laches without any fundamental right to press for relief.

8. For these many reasons, no interference is called for even to keep the petitioner's case alive till the case involving Mangaldeep Singh is finalized because the petitioner did not apply under the Wards of Policemen category but applied in the scheduled caste category where he failed to make the merit on the basis of reservation applied for. As a necessary corollary the petition is ordered to stand dismissed.

21.01.2016
monika

(RAJIV NARAIN RAINA)
JUDGE