

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.13691 of 2016 (O&M)

Date of Decision: 13.07.2016

Sumeer Singh

... Petitioner

VS.

State of Punjab & Ors.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE DARSHAN SINGH**

Present: Mr. DS Patwalia, Senior Advocate with
Mr. Sehaj Bir Singh, Advocate for the petitioner

SURYA KANT, J. (Oral)

(1) The petitioner is a serving Indian Military Officer. His physical height appears to be 5-feet 6-inches. He applied through proper channel to participate in the Punjab State Civil Services Combined Competitive Examination, 2015 which includes the posts of Deputy Superintendent of Police, Deputy Superintendent Jails/District Probation Officer (Gr-II) etc. The application was submitted in response to an Advertisement issued on 11.09.2015 (P2).

(2) Having realized that in view of prescription of minimum height of 5-feet 7-inches for recruitment to the post of Deputy Superintendent of Police, Deputy Superintendent Jails/District Probation Officer (Gr-II) etc. in the Statutory Rules known as Punjab Police Service Rules, 1959 read with such a stipulation in the notification dated 09.07.2009 that he would not be able to compete for the above-mentioned posts for want of physical standards, the petitioner has laid challenge to Rule 7(1)(iii) of the Punjab Police Service Rules, 1959 as well as Clause 8 of the General Information circulated for the above-stated 2015 examination.

(3) We have heard learned counsel for the petitioner at a considerable length and gone through the record.

(4) In our considered view, the prescription of minimum height of 5 feet 7 inches in the Statutory Rules for recruitment to the post of Deputy Superintendent of Police etc. neither violates any provision of the Constitution nor of a Statute, to warrant interference by this Court. The prescription of qualification including minimum physical standards for a civil post is essentially the job of experts and the Executive who have in their wisdom prescribed minimum height which has been uniformly applied to all the candidates. Any interference by this Court in such prescription for inclusion of the petitioner in the eligibility zone would open the Pandora's box as there would be unending claims from other candidates whose height might be less than 5 feet 6 inches. The Courts would be reluctant to adopt such a recourse of uncertainty. Otherwise also, the prescription of physical standards satisfies the test of reasonableness and calls for no interference.

(5) We cannot be oblivious of the fact that the prescription of minimum height was known to the petitioner at the time when he applied for Combined Examination in October, 2015. He did not chose to challenge the Rules/Advertisement at that stage and has come to this Court only after he has qualified the written examination. Faced with this, learned counsel for the appellant refers to Rule 14 of the 1959 Rules which contains general power to relax rules *"where the Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, relaxation of the provisions of these rules with respect to any class or category of persons"*. It is contended that serving Military personnel constitute a distinct and separate class and if such trained minds

are brought to the police force, it would strengthen the quality of State Police. Learned counsel urges that it is a fit case where the State Government ought to exercise its powers under Rule 14 *ibid*.

(6) We are afraid the Court cannot command the State Government to invoke its powers under Rule 14 and relax the eligibility conditions. However, nothing precludes the competent authority to invoke its powers save the pre-conditions enumerated in the Rule itself are satisfied. We thus decline to interfere with the Rule under challenge or the Advertisement, however, the petitioner may submit a representation to the State Government to consider the desirability of relaxing the Rules to the extent of prescription of minimum height for the posts of Deputy Superintendent of Police, Deputy Superintendent Jails/District Probation Officer (Gr-II) etc. We have no reason to doubt that the State Government shall consider such claim objectively and in accordance with law. It shall be appreciated that appropriate decision is taken within one week from the date of submission of the application by the petitioner.

(7) With observations and liberty afore-mentioned, the writ petition stands dismissed.

(Surya Kant)
Judge

13.07.2016
vishal shonkar

(Darshan Singh)
Judge