

CWP-21343-2014 (O&M)
CWP-666-2016 (O&M)
CWP-10083-2015 (O&M)

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

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Decided on: 15.03.2017

CWP-21343-2014

Dharmender Lakra and others	...Petitioners
Versus	
State of Haryana and others	...Respondents

CWP-666-2016 (O&M)

Sandeep Kumar and others	...Petitioners
Versus	
State of Haryana and others	Respondents

CWP-10083-2015

Sajjan Singh and others	...Petitioners
Versus	
State of Haryana and others	...Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. R.K.Malik, Senior Advocate with
Mr. Tej Pal Singh Dhull, Advocate
for the petitioners.(**CWP-666-2016 and CWP-21343-2014**)

Mr. B.S.Tewatia, Advocate
for the petitioner.(in **CWP-10083-2015**)

Ms. Shruti Jain Goyal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

This common order will dispose of all three civil writ petitions
mentioned above.

These petitions have been filed to challenge the order/s

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whereby the claim of the petitioners has been rejected for appointment as Constables against the vacant posts due to non-availability of Ex-servicemen General category and Ex-servicemen BC-A category.

Brief facts of the present case are that the respondents had advertised 5456 posts of Constable which were distributed in different Districts of Haryana. As per the relevant instructions posts were advertised for Ex-serviceman candidates. The dispute in all these cases relates to those posts which were reserved for Ex-servicemen candidates and could not be filled up due to paucity of candidates. The petitioners were all candidates of different categories who were not ex-servicemen or dependents of ex-servicemen. Their claim was that unfilled posts of Ex-servicemen should revert back to the respective category in vertical reservation, meaning thereby that unfilled General category Ex-servicemen posts would revert back to General category candidate and so on. The present petitioners in CWP-21343-2014 are candidates of District Panipat in, petitioners in CWP-666-2016 are from District Jind and petitioners in CWP-10083-2015 are from District Palwal. All of them were placed at various places in the waiting list and claim that if unfilled posts of ESM category are reverted back they would be eligible for appointment. Other similarly situated candidates of Jind filed ***CWP -24503 of 2015*** titled as ***Dharmbir Singh and others vs. State of Haryana and others*** and that was allowed on 14.01.2016 and the respondents were directed to revert the vacant posts of ESM to respective categories and consider those petitioners for appointment. It is

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not disputed that the said judgment has become final and in fact has been implemented and those petitioners have been considered for appointments.

Learned Assistant Advocate General has very strenuously argued that the said judgment is flawed since many relevant factors have not been either noticed or, if noticed not answered in the said judgment.

I am afraid that the respondents would now be able to take benefit of this argument in these cases. It is not disputed that the judgment in ***Dharmbir Singh's case(supra)*** could have been challenged in LPA on all the grounds which are being sought to be raised before me today but the same was consciously allowed to become final and rather, implemented. I am of the opinion that it could not be open to the State to allow a judgment to become final and implement it and then for the same selection take a plea in another writ petition that the judgment was wrong. It could lead to a very anomalous situation because the petitioners in the present petitions may be higher in the waiting list than one of the petitioners in Dharambir Singh's case (supra) and that person may have given an appointment and now a person who is higher in merit is being sought to be denied that benefit. The other connected cases relate to the same advertisement, from different districts and for the same reason, I do not deem it appropriate to revisit that decision and allow the State the liberty and the right to choose in which case to file appeal and in which similar case appeal is not to be filed.

Consequently, the present petitions are allowed in the same terms as Dharambir Singh's case (supra).

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Since the main cases have been decided, the pending Civil
Misc. Application, if any, also stands disposed of.

March 15, 2017
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No