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

Civil Writ Petition No.25157 of 2014

Date of decision: 10.07.2017

Ranbir Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

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

Present: Mr. Arihant Goyal, Advocate for the petitioner.

Ms. Shruti Jain Goyal, Assistant Advocate General, Haryana
for respondents no.1 to 3.

Respondents No.4,6 and 8 exparte.

Mr. M.S.Rana, Advocate for respondents No.5 and 7.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks consideration and selection to the post of Forest Guard in the category of Outstanding Sports Persons (General) (hereinafter referred to as “ the OSP(G)”) over and above the respondents no.4 to 8 with all consequential benefits on the ground that they are lower in overall merit and further issue a writ of Certiorari quashing the impugned result dated 25.6.2014 (Annexure P/5) whereby 12 persons were selected and the petitioner, namely, Ranbir Singh in spite of being at serial no.3 and having 96.33 marks in the merit list was left out.

Inspite of service upon respondents no.4,6 and 8, they have not chosen to put in appearance and have been proceeded against exparte vide order dated 17.12.2015.

It is the grouse of the petitioner that he being higher in merit than respondent no.4-Sandeep Kumar who had secured 91.44 marks and was even over age as his date of birth is 27.5.1972 has been selected and appointed. Similarly candidates mentioned at serial nos. 10 to 13 were also lower in merit having only obtained marks from 92.50 to 94.80. The justification of the State to keep the petitioner out on strength of his merit was that he had a C-1 Sports Grading Certificate and other 12 candidates had higher gradation certificates on account of which the petitioner was not amongst the selected candidates against 12 advertised sports quota in OSP (G) category posts.

A perusal of the advertisement no.01/2011 dated 19.3.2011 (Annexure P/1) would go on to show that applications were invited for 203 posts of Forest Guard initially and the last date of submission of applications was 18.4.2011. The required age was between 17 to 40. The number of posts was thereafter enhanced upto 471 vide advertisement No.1 dated 6.3.2013 (Annexure P/2). It is pertinent to mention here that for the posts advertised initially, there was no such categorization for the OSP(G) category. However, vide advertisement dated 6.3.2013 there was 12 posts for the OSP(G) category and required age was to be between 17 to 40 years as on 8.4.2013 which was also the last date for applying. As per note-2 in case candidates wanted to change the category in view of the fresh advertisement they were to apply fresh. Relevant part of the said advertisement reads as under:-

“DETAILS OF POSTS AND QUALIFICATIONS

General=80, Scheduled Caste=75, Backward Class(A)=30,

Backward Class(B)=86, Exserviceman(Gen)=27, Ex-Serviceman(BCA)=37, Ex-Serviceman(BCB)=37, Ex-Serviceman(SC)=61, **Outstanding Sports Person(Gen)=12**, Outstanding Sports Person(SC)=13, Outstanding Sports Person(BCA)=7, Outstanding Sports Person (BCB)=6
(Total: 471).

Essential Qualification:

i) Matriculation or equivalent examination from a recognised State Education Board/University.

ii) Hindi up to Matric Standard

iii) Minimum physical standards:

Male	Female
a. Height 168 cms	155cms
b. Chest 79 cms	74 cms
(Un-expanded)	
84 cms	79 cms
(Expanded)	
c. Walking test of 25 kms for males and 14 kms for females to be completed in 4 hours.	

iv. **Age: 17–40 years as on 08.04.2013.**

XXX

XXX

XXX

Note-2: Those candidates who have applied earlier against advt. No. 1/2011 Category No. 2 dated 19.03.2011 and corrigendum dated 18.10.2011 for the post of Forest Guard advertised by Haryana Staff Selection Commission, are exempted from paying fee. However, they should enclose a self-attested photocopy of the challan regarding fee deposited along with the Application Form. In case they want to change the category in view of fresh advertisement, they will have to apply afresh and fee has also to be deposited for that category. For detailed instructions and application proforma see website: www.haryanaforest.gov.in.”

Similarly for the reserved seats for sports persons the recruitment for sports persons was to be as per the sports policy of Haryana Government within the main category as per Government instructions. Relevant portion reads as under:-

“Reservation of posts:

- i. Reservation will be as per Haryana government instructions.
- ii. For Sports persons: The recruitment for sportspersons will be as per the sports policy of Haryana Govt. within the main category.”

It is the case of the petitioner that vide communication dated 2.12.2013 (Annexure P/3) the candidates were to be short listed in their respective categories for interview on the basis of marks obtained in the essential academic qualification and minimum cut off percentage of marks in the case of OSP(G) category had been fixed as 53. As per the said notice issued the criteria was fixed and the percentage of marks obtained in qualifying examination was to be considered and the CGPA score had to be converted into percentage of marks by multiplying by a factor providing in the mark sheet issued by the Examination Board. The maximum marks for the interview was to be 50 marks and the final merit list was to be prepared by adding marks obtained in qualifying examination (in percentage) and interview. As per the fixed percentage the candidates were to be called for Physical Efficiency Test (PET-Physical measurement and walking test as per advertisement) and interview at the designated place. Relevant criteria reads as under:-

- “1. The percentage of marks obtained in qualifying examination as provided in the application form by the

applicant has been considered for short listing the candidate. CGPA score provided by the candidates has been converted into percentage of marks by multiplying by a factor providing in the mark sheet issued by the Examination Board. The maximum marks for interview will be 50. Final merit list will be prepared by adding marks obtained in qualifying examination (in percentage) and interview.

2. All the shortlisted candidates with the above mentioned percentage or higher percentage of marks in qualifying examination will be called for Physical Efficiency Test (PET-Physical measurement and walking test as per advertisement) and interview at the designated place and date mentioned in the call letter.”

It is the further case of the petitioner that accordingly he appeared in the Physical Efficiency Test on 30.12.2013 and also completed 25 kilometers walk in 3 hours 40 minutes and 25 seconds as per Physical Efficiency Test Qualifying Certificate dated 30.12.2013 (Annexure P/4). The result was thereafter declared on 25.6.2014 (Annexure P/5) in which 12 candidates of the said category were shown in which name of the petitioner did not figure. However, it was also mentioned that they have been selected for appointment on the basis of criteria advertised vide advertisement No.DSC08/2013 dated 02.12.2013 (Annexure P/3). As per Note 4 the Committee had reserved the right to rectify the result later on in case of any error. It was accordingly pleaded that as per the chart/selection list (Annexure P/6) prepared the name of the petitioner was shown at serial no.3 but he was left out on account of the fact that he had lower gradation sports certificate though he was higher in merit and 5 persons were lower.

The said merit list reads as under:-

HARYANA FOREST DEPARTMENT
VAN BHAWAN
SELECTION LIST OF OUTSTANDING SPORT PERSON(GENERAL)
FOREST GUARD 12 POST ADV. NO.01/2013.

Sr. No.	Roll no.	Name	Father's name	D.O.B	Phys-ically effi-ciency test (A)/ Qual-ified (Q)/ Not Qual-ified	% mark s in Acad e-mics (i)	Mar-ks in inter view (ii)	Total (i+ii)	Inter-view pres-ent (A)/ Abs-ent (A)	Sports Grada-tion for outsta-nding sports person (OSP)	Categ-ory applied	Category Y consid-ered	Sub Cate-gory	Cate-gory Merit	Eligible or not	Remarks
1	4376	Naveen Bisla	Ranbeer Singh Bisla	20.7.1992	Q	68.40	28	96.40	P	A-1	OSP(G)	OSP(G)		1	Eligible	Selected
2.	4390	Puneet Kumar	Raj Singh	2.2.1993	Q	75.80	28	103.80	P	A-2	OSP(G)	OSP(G)		2	Eligible	Selected
3.	4399	Ranbir Singh	Ram Singh	6.5.1976	Q	59.33	37	96.33	P	C-1	OSP(G)	OSP(G)		3	Eligible	
4.	4415	Sandeep Kumar	Raghubir Singh	27.5.1972	Q	68.44	23	91.44	P	A-2	OSP(G)	OSP(G)		4	Eligible	Selected
5.	4421	Sanju	Surjit Singh	20.8.1992	Q	81.40	40	121.40	P	B-1	OSP(G)	OSP(G)		5	Eligible	Selected
6.	4429	Sudesh	Satbir Singh	24.12.92	Q	75.20	35	110.20	P	B-1	OSP(G)	OSP(G)		6	Eligible	Selected
7.	4691	Maneet	Randhir Singh	10.3.1995	Q	71.80	38	109.80	P	B-1	OSP(G)	OSP(G)		7	Eligible	Selected
8.	4388	Poonam	Rajinder Sanga	15.2.1991	Q	67.60	34	101.80	P	B-1	OSP(G)	OSP(G)		8	Eligible	Selected
9.	4363	Mandeep	Jagdish	20.12.92	Q	65.20	36	101.20	P	B-1	OSP(G)	OSP(G)		9	Eligible	Selected
10.	4329	Arvind Hooda	Dinesh Hooda	21.10.94	Q	56.80	38	94.80	P	B-1	OSP(G)	OSP(G)		10	Eligible	Selected
11.	4360	Krishan	Suraj Mal	5.7.1990	Q	58.40	36	94.40	P	B-1	OSP(G)	OSP(G)		11	Eligible	Selected
12.	4378	Paramjeet	Ram Mehar Hooda	27.12.92	Q	57.60	35	92.60	P	B-1	OSP(G)	OSP(G)		12	Eligible	Selected
13.	4347	Jagmender	Kalam Singh	2.1.1975	Q	54.50	38	92.50	P	B-1	OSP(G)	OSP(G)		13	Eligible	Selected

Counsel for the petitioner has also placed reliance on another policy dated 26.7.2001 (Annexure P/10) to submit that as per policy of the State there was horizontal reservation to be provided and there was no such preferences to be granted on the basis of gradation certificates in sports. Hence, the petitioner has approached this Court.

The official respondents in their written statement have justified the selection process on the ground that according to sports policy dated 30.11.1993 (Annexure R/3) also preference in Government appointment is to be given to all those eligible sports persons possessing Sports Gradation Certificate issued by the Directorate of Department of Sports and Youth Welfare, Government of Haryana. Reference has also been made vide communications dated 4.5.1995 and 3.10.2013 (Annexures R/1 and R/2 respectively) issued by the Union of India. Accordingly, the State in its reply has submitted that priority was given in order of sports grading of A-1, A-2, B-1, B-2, C-1, C-2, D-1 and D-2 granted by the Directorate of Department of Sports and Youth Welfare, Government of Haryana. Therefore, the petitioner had not made the cut as he had lower grade certificate of C-1 than the other candidates who had certificates of grade A-1, A-2 and B-1. It is further averred that the gradation of sports persons by the Sports Department is done for achievement at different levels of sports competitions for Government employment and other benefits and educational qualification alone cannot be the sole criteria for final selection. Regarding over age aspect of respondent no.4, it was justified that respondent no.4 Sandeep Kumar had applied against advertisement in the year 2011 (Annexure P/1) initially and was eligible so far as the age is concerned. It is accordingly submitted that candidates who applied in 2011 were eligible in respect of all conditions in 2013 also but had to apply afresh without paying the application fee and therefore, once he was eligible in 2011, he must be considered as eligible on 6.3.2013 also.

After hearing counsel for the parties, this Court is of the

opinion that the criteria which has been applied by the respondents to the detriment of the petitioner was without any basis. Admittedly as per advertisement itself for the recruitment of Sports Persons, the selection is to be made as per the sports policy of Haryana Government as reproduced above. Nothing could be pointed out from the policy dated 30.11.1993 (Annexure R/3) that selection as such was not to proceed on merit which had been fixed as per recruitment notice dated 2.12.2013 (Annexure P/3). Annexure R/3 only provides criteria of the grading of certificates of outstanding sports persons who have played from the international level to the district level. In the said instructions it has not been mentioned that the academic merit as such is to be given a go bye and preference is only to the grading based certificate. Reliance upon Annexures R/1 and R/2 would be of no avail to the State which are regarding the procedure to be followed by the Union of India and as per the advertisement the policy of the State was applicable. Therefore, as per advertisement itself, it is the policy of the State which is to prevail.

Counsel for the State has brought to the notice of the Court the Division Bench judgment in **Ranbir Singh Vs. Thapar Institute of Engineering & Technology, Patiala and another** 1988 AIR (Punjab) 51 whereby it was held that the merit list prepared by the College is to govern rather than the ranking in the sports. The relevant para nos. 5 to 8 read as under:-

“5. The question that arises for determination is whether the petitioner is entitled to be admitted to the College in preference to respondent No. 2, on the ground that he possesses higher grade sports certificate, though he ranks lower than the latter in the merit

list prepared by the College after giving weightage to them on account of the Sports Certificates.

6. In order to determine the question, it is relevant to read the clause by which weightage is given to candidates holding Sports Certificates for admission in the College against the vacancies reserved for sportsmen. It is as follows ;

"2% seats are reserved for outstanding sportsmen possessing sports gradation certificates A, B, C & D issued by the Department of Sports, Punjab. For purposes of determining the inter se merit of the candidates weightage of 10%, 5%, 3% and 2% marks for A, B, C & D grades respectively would be added to the normalized qualifying marks obtained by the candidates."

7. From a reading of the Clause, it is clear that in order to determine inter se merit of the sportsmen for admission to the College, weightage is given to them by adding 10%, 5%, 3%, and 2% marks on the basis of their Sports Gradation Certificates to normalized qualifying marks. Thus while determining merit of the candidates, benefit of the Sports Gradation Certificates is given to them and on the basis of that merit, they are admitted to the College. The Clause nowhere provides that a sportsman having Higher Grade Sports Certificate is to be preferred for admission to the College to that who holds a Lower Grade Certificate. If that had been the intention of the Government, the instructions would have been couched in a different Language. It is well settled principle of interpretation of statutes that the words in the statutes are given their plain meanings. The duty of the Court is to take the statute as it stands and construe the words in their natural sense. If its language is clear and unambiguous; the Court cannot extend its operation. From a plain reading of the Clause, it cannot be held that sportsmen having Higher Grade Certificates are to be preferred to those

who are having Lower Grade Certificates notwithstanding that they are lower in merit in the merit list than the latter.

8. The facts of the case are not disputed. The petitioner, it is true, holds a Higher Grade Certificate than that of respondent No. 2 but he gets 78.21 per cent marks, whereas respondent No. 2 gets 78.77 per cent marks. Thus, he is lower in the merit list, prepared by the College, than respondent No. 2. In view of the aforesaid discussion, we are of the view that he is not entitled to be admitted to the College in preference to respondent No. 2 on the ground that he possesses Higher Grade Sports Certificate than that of the latter.”

The view has been upheld by the two Full Bench decisions in

Miss Chetna Sharma Vs. Union Territory, Chandigarh 1992 AIR (Punjab) 109 and Amardeep Singh Sahota Vs. State of Punjab 1993(2) PLR 212.

It is further to be noticed that criteria itself has been prescribed in Recruitment Notice issued by the State, therefore, the State could not turn around at the last stage and change the criteria to the detriment of the petitioner. The principle that rules cannot be changed once the game has started is also applicable to the facts and circumstances of this case. The Apex Court in **Himani Malhotra Vs. High Court of Delhi 2008(2) Service Cases Today 736 and State of Bihar and others Vs. Mithilesh Kumar 2010(13) SCC 467** has held to this effect that criteria which have been fixed at the time of selection process could not be changed once the selection process has started. Resultantly, the petitioner who has secured 96.33 marks as per the merit list prepared by the State being higher in merit than respondent no.4 who has secured 91.44 marks and who was also over

age is entitled to the relief claimed.

As noticed respondent no.4 was required to be below 40 years as on 8.4.2013 and as per above merit list his date of birth is 27.5.1972. Therefore, he was more than 40 years on the prescribed date and not eligible. The justification of the State that he was 40 years of age when the posts were advertised initially in the year 2011 is without any basis. As noticed at the initial stage when the posts were advertised, there was no category of OSP(G) which would be clear from Annexure P/1. Therefore, the said respondent could not have applied against the said category. 12 posts under the said category of OSP(G) were only specified in the subsequent advertisement dated 6.3.2013 (Annexure P/2). Therefore, the eligibility criteria has to be seen for the said category as on 8.4.2013 which is closing date and the said respondent was thus not eligible as per terms of the advertisement itself also. Resultantly, the petitioner's claim for writ of certiorari quashing the result is also justified.

Accordingly, the writ petition is allowed. The appointment of respondent no.4-Sandeep Kumar, who was the lowest in merit and over age is set aside. The petitioner be given appointment on the post of Forest Guard against the post vacated by respondent no.4 from the date, the appointment was offered to respondent no.4 with all consequential reliefs and his seniority be fixed accordingly as per his merit in the selection list (Annexure P/6).

July 10, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No