

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CIVIL WRIT PETITION NO.24202 OF 2017

DATE OF DECISION: OCTOBER 26, 2017

Bhagat SinghPetitioner

Versus

State of Punjab and othersRespondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.PS Jammu, Advocate for the petitioner.

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TEJINDER SINGH DHINDSA, J.

Petitioner had subjected himself to a process of recruitment for appointment as a male Constable under the general category in pursuance to advertisement No.1/2016 dated 31.5.2016 issued by the Director General of Police, Punjab. In terms of the selection criteria disclosed in the advertisement, petitioner has secured 28 marks in the final merit. Apparently, other candidates belonging to the general category who have also secured 28 marks as per final merit have been appointed. Petitioner has been denied appointment. Pleadings on record would indicate that under Standing Order No.1/2016 issued by the Director General of Police, Punjab on the subject of recruitment of Constables (male/female) in District Police Cadre and Armed Police Cadre of Punjab Police, Clause 6 provides that while

preparing a combined final merit list, in the event of two candidates securing equal marks, a candidate senior in age shall be accorded preference. The date of birth of the petitioner is 2.1.1992 and the other candidates who were bracketed in merit having secured equal marks i.e. 28 marks are, concededly, elder to the petitioner.

2. The instant writ petition has been filed impugning the offending clause 6(a) of Standing Order No.1/2016 and which is in the following terms:

“(a) in the event of the candidates having equal marks, the candidate senior in age shall be higher in the merit.

(b) xxx xxx xxx

(c) xxx xxx xxx”

3. Learned counsel would argue that the offending clause is arbitrary as also illegal, inasmuch as, earlier a decision had been taken by the respondent-State to prefer candidates younger in age in the eventuality of two or more candidates having equal marks. It is urged that such decision was contained in memo dated 19.3.2010, Annexure P5, and which had been put to challenge and upheld by this Court vide judgment dated 22.5.2013 in Civil Writ Petition No.1889 of 2012 (**Savitoj Singh v. State of Punjab and others**), Annexure P10. Learned counsel argues that the reason and logic for fixing a criteria whereby a younger person was to be given preference when bracketed in merit was that as per requirement of being a member of police force, a younger person would be more energetic and as such, in

a better capacity to discharge the arduous duties attached to the assignment.

4. Having heard learned counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that the validity of offending Clause 6(a) of Standing Order No.1/2016 would not require any examination on merits.

5. It is by now well settled that if a candidate participates in a process of selection wherein the eligibility criteria as also criteria of selection stands disclosed before hand, such candidate cannot thereafter, upon having been unsuccessful, be permitted to turn around and to contend that the eligibility criteria was arbitrary and wrongly framed. A reference in this regard may be made to the decisions of the Hon'ble Supreme Court of India in **Madan Lal and others v. State of Jammu & Kashmir, AIR 1995 SC 1088** and **G.N.Nayak v. Goa University, 2002(1) S.C.T. 1052**.

6. In the present case, the advertisement dated 31.5.2016 in response to which the petitioner had applied for the post of male Constable (general category) has been placed on record and appended as Annexure P3. General instructions for the candidates were contained in Clause 20. Clause 20 (vii) was in the following terms:

“vii. Candidates are advised to go through the guidelines/instructions for filling up the Application Form online as well as the Standing Order (SO) of the office of Director General of Police vide No.1 of 2016, which is the governing document for the Recruitment

process (2016) of Constables in Punjab Police. The Standing Order containing detailed criteria/eligibility conditions, etc., is available on the recruitment website (www.punjabpolicerecruitment.in)”.

7. Standing Order No.1/2016 stands specifically referred to under Clause 20(vii) of the General Instructions for the prospective candidates. Clause 6(a) of Standing Order No.1/2016 was categorical to the effect that in the event of candidates having equal marks, the candidate senior in age shall be considered higher in merit.

8. Petitioner herein submitted his application for the post in question and subjected himself to a process of selection as per terms and conditions contained in the advertisement. Participation of the petitioner in the recruitment process is not stated to be under protest. Under the general instructions contained in the advertisement, each and every applicant including the petitioner herein had been put to notice that the Standing Order of the office of Director General of Police bearing No.1/2016 would be the governing document for the recruitment process and such Standing Order is available on the recruitment website i.e. www.punjabpolicerecruitment.in.

9. Petitioner, as such, was made aware at the very threshold that in the eventuality of being bracketed in merit with one or more candidates, the candidate elder in age would be preferred. By applying the dictum laid down by the Apex Court in **Madan Lal's** case (supra), the petitioner having been bracketed in terms of merit i.e. having secured 28 marks in the final merit list,

cannot now be permitted to turn around to raise a challenge to the eligibility as also selection criteria and as contained in the Standing Order No.1/2016 whereby the candidate elder in age to the petitioner has been preferred and the petitioner has been declined appointment.

10. For the reasons recorded above, the writ petition is dismissed.

11. It is, however, clarified that this Court has not expressed any opinion on merits as regards the validity of the offending Clause 6(a) of Standing Order No.1/2016 issued by the Director General of Police, Punjab.

12. Dismissed.

OCTOBER 26, 2017
SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note:	<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
	<i>Whether Reportable:</i>	<i>Yes/No</i>