

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

**Civil Writ Petition No. 3588 of 2017 (O&M)  
Date of Decision: 27.04.2017**

Ex-LNK Gurwinder Singh

..... Petitioner

**Versus**

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH**

Present: Mr. Vishal Satija, Advocate for  
Mr. Vivek K. Thakur, Advocate for the petitioner.

Mr. Anant Kataria, Deputy Advocate General, Punjab  
for respondent Nos. 1 to 3/State.

Mr. H.S. Saini, Advocate for  
Mr. Jagdeep Jaswal, Advocate for respondent Nos. 4 to 6.

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**JASWANT SINGH, J. (ORAL)**

The petitioner has competed against the fourteen (14) posts of Male Constables in the Special Security Group (Special Protection Unit) in the Armed Police Cadre of Punjab Police, reserved for Ex-Servicemen General Category, advertised pursuant to advertisement dated 08.10.2016 (**Annexure P-1**). The final merit list of all the candidates was to be prepared on the basis of marks obtained by the candidates, out of total thirty (30) marks, for (i) Height Measurement-15 marks (ii) Educational Qualifications-10 marks (iii) Additional marks for additional qualifications-02 marks and (iv) Interview-cum-Personality Test-03 marks. The petitioner was stated to have secured twenty-two (22) marks and the last candidate in the General Category obtained twenty-three (23) marks.

The grievance of the petitioner raised in the present petition is that his height was wrongly measured as 6 feet and, therefore, awarded only twelve (12) marks as per the criteria, however, he was entitled to award of one (01) extra mark in the light of his height being 6 feet & 01 inch, as correctly reflected in his Discharge Book (**Annexure P-4 Collectively**), issued by the Army Authorities. It was contended that if one additional mark is awarded, then the petitioner would secure twenty-three (23) marks, and thus fall within the zone of appointment.

Upon notice, Sh. Balwinder Singh, Commandant 13<sup>th</sup> Battalion, PAP Chandigarh, has filed his affidavit/reply dated 26.03.2017, the relevant para Nos. 2 & 3 of the preliminary submissions of the reply are reproduced as under:-

*2. That, as per vacancy breakup 14 vacancies have been allotted in General Category Ex-Serviceman quota (Annexure R-3). The petitioner existed at serial no. 48 out of selected candidates 71 in consolidated merit list of Ex. Serviceman (Annexure R-4). Thus even if submission of petitioner is admitted for the sake of arguments, petitioner would get (22+1)=23 marks. This will fetch merit No. 25 to the petitioner and in no case petitioner will be selected as last selected candidate at Sr. No. 14 namely Sikander Singh bearing Roll No. 19409110879 also received 23 marks but on account of higher in age. He will get preference over the petitioner. As per Standing Order No. 11/2016 clearly mentioned at Sr. No. 06 Clause (a) in the event of the candidates having equal marks, the candidate senior in age shall be put higher in the merit (Annexure R-2).*

3. That as per vacancy breakup, 7% posts are reserved for Ex. Servicemen (General Category) thus only 14 posts are liable to be fill up and reservation for waiting list as per the norm of 20% only 3 posts of candidates are lying kept in waiting list. Last candidate selected at Sr. No. 14 namely Sikander Singh and last candidate of waiting list namely Gurnam Singh bearing Roll No. 19609110833 got 23 marks each but being senior in age are put higher in the merit as per the Standing Order No. 11/2016 (Annexure R-5).

After hearing learned counsel for the parties and in view of the aforesaid para Nos. 2 & 3, which have not been rebutted, it is apparent that even if the petitioner is awarded one (01) more mark and, thus, his marks become 23, and merit position 25<sup>th</sup>, even then he does not fall within the zone of appointment of fourteen (14) candidates. No doubt the fourteenth (14<sup>th</sup>) appointed candidate has secured twenty-three (23) marks, as also all the candidates including the three (03) put on waiting list till the placement of petitioner at Merit No. 25, however, they have been placed *inter se* in order of the seniority of their age as per the decision taken by the competent authority. Even otherwise it cannot be disputed that in service jurisprudence, if the merit of the candidates is equal, then the person senior in age has a prior right.

In view of the aforesaid factual position, no case for interference is made out, accordingly, the present petition stands dismissed.

**April 27, 2017**

*'dk kamra'*

**( JASWANT SINGH )  
JUDGE**

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|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |