

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

**(I) CWP-10271-2014
Date of decision-16.07.2018**

Amandeep Singh ...Petitioner

Vs.

State of Punjab and another ...Respondents

**(II) CWP-7048-2015
Date of decision-16.07.2018**

Sukhbir Singh ...Petitioner

Vs.

State of Punjab and another ...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Puneet Sharma, Advocate,
for the petitioner in CWP-10271-2014.

Mr. Girish Agnihotri, Sr. Advocate,
with Mr. Gaurav Chopra and
Mr. Ishaan Bhardwaj, Advocates,
for the petitioner in CWP-7048-2015.

Ms. Deepali Puri, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J.

The above noticed two writ petitions are being disposed of by this single judgment as common questions of law and facts are involved therein. However, for brevity, the facts are being derived from CWP-7048-2015.

Consequent upon death of his father, late Shri Balbir Singh,

PPS, who died in harness on 26.03.1999, while holding the post of Deputy Superintendent of Police, the petitioner submitted an application dated 24.04.1999 (Annexure P-1), for being enlisted as an Inspector of Police. Upon acquiring the necessary qualification/age for the post in question, in the year 2005, the petitioner again approached the authorities seeking appointment as Inspector of Police. After about four years, the case of the petitioner was considered, approved and recommended by respondent No.1 for appointment as Assistant Sub Inspector (ASI) on 30.01.2009, whereas, after another more than one year, the petitioner was issued an appointment letter (Annexure P-5) for the post of ASI on 17.03.2010. The petitioner represented before the authorities seeking appointment as Inspector of Police which was rejected by respondent No.2 vide order dated 23.08.2012 (Annexure P-22). Further, the representation/appeal preferred by the petitioner was also rejected by respondent No.1 vide order dated 16.01.2014 (Annexure P-25).

It is contended that the action of the respondents in denying the petitioner post of Inspector of Police is in clear violation of Articles 14 and 16 of the Constitution of India. As many as seven similarly situated candidates had been given appointment under the Priority List Instructions as Inspector of Police or Sub-Inspector of Police.

Vide order dated 24.04.2018, this Court passed the following order:-

“After hearing the counsel for the parties at length, the Court finds that the case of the petitioner is

absolutely identical to the officials reflected in Annexure P-7 who were allowed to join as Inspector.

Learned State counsel is directed to seek instructions whether the State has any proposal to revert the said officials mentioned in Annexure P-7 or inclined to consider the name of the petitioner for the post of Inspector.

List again on 07.05.2018.”

In response thereto, the respondents filed affidavit dated 29.05.2018, wherein, a list of 30 candidates who were appointed as Inspector of Police, has been provided and the case of the petitioner has been sought to be distinguished primarily on the ground that his mother was already in government service which is not in the case of other candidates. However, during the course of arguments, it has been brought to the notice of the Court that mother of the petitioner had sought and was granted retirement from the Indian Army in the year 2005 on health grounds. Even otherwise, even the wards of mothers who were already in Government job at the time of their respective appointment as Inspector of Police were given appointments as such. Another ground which has been taken by the respondents in order to justify denial of appointment to the post of Inspector of Police to the petitioner is that at the time of his appointment, the post of Inspector of Police was declared as 'Group B' post, vide notification dated 13.10.2009. This argument also has no force inasmuch as the post in question was a

Group C post at the time of the death of the petitioner's father as also at the time when the petitioner became eligible for appointment in terms of age and qualification in the year 2004.

Similarly, in CWP-10271-2014, despite the case of petitioner- Amandeep Singh recommended for appointment as Inspector of Police, he was given appointment as Constable without there being any justification, whatsoever, for the said action (though petitioner was enlisted as ASI vide order dated 10.08.2010 w.e.f. 13.07.2009 i.e. the date of enlistment as Constable).

By far, the State has not been able to draw any distinction between the petitioners and the candidates who were appointed as Inspector of Police, which may sustain in the eyes of law. It is a settled principle that the State does not have any power to discriminate between persons similarly situated.

Hon'ble the Supreme Court, in ***V. Punnam Thomas Vs. State of Kerala, AIR 1969 Kerala 91***, observed as under:-

“The Government is not and should not be as free as individual in selecting the recipients for its largess. Whatever its activity, the Government is still the Government and will be subject to restraints, inherent in its position in a democratic society. A democratic Government cannot lay down arbitrary and capricious standards for the choice of persons with whom alone it will deal.”

Thus, from the above narrated facts and circumstances, this Court has no hesitation to hold that the respondents have violated the petitioners' fundamental right of equality before law as guaranteed to them under Articles 14 and 16 of the Constitution of India. They have acted in a discriminatory manner with the petitioners and the same needs to be rectified particularly, when the State was afforded an opportunity to rectify its mistake and not to apply different parameters on the identically placed beneficiaries.

In view of the above discussion, the present writ petitions are allowed and the impugned orders are quashed. The respondents are directed to consider the claim of the petitioners for appointment to the post of Inspector of Police and on consideration thereof, issue appropriate orders in accordance with law. The necessary exercise be completed with two months from the date of receipt of a certified copy of this judgment.

(JITENDRA CHAUHAN)
JUDGE

16.07.2018
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No