

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 05.04.2018****CWP No.15883 of 2014 (O&M)**

Neeraj

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Bikram Chaudhary, Advocate, for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

Mr. S.S.Momi, Advocate, for respondent No.7.

Mr. Aftab Singh Khara, Advocate, for respondent No.8.

RAJIV NARAIN RAINA, J.

Respondents No.7 and 8 were appointed as Sub Inspector and Constable in Haryana Police in the Outstanding Sports Person category. They joined service of the police department in the years 2011 and 2013 respectively. The challenge in the instant petition is to the validity of the appointments made without inviting applications from eligible OSPs through public advertisement and also on the plea that 'Bodybuilding' is not a sport or game prescribed in the Sports Policy, 2009 issued by the Department of Sports & Youth Affairs, Government of Haryana.

The Sports policy accords high priority to the promotion of sports in the State. The Sports Department has listed 42 sports/games for providing sporting activities under various schemes and programmes. Admittedly,

‘Bodybuilding’ is not on the list. The Policy lists 25 sports/games under the heading ‘Olympic Games’ and 17 sports/games under the heading ‘Non-Olympic Games’. The policy provides for awards to coaches including cash awards. It lays down the selection criteria for Bhim Awards etc. and **wages** for referees, umpires and judges.

The policy does not speak of or make provision for jobs and appointments to public posts. Its aim is to increase State’s reputation appreciably in Olympics, National Games, Commonwealth Games, Afro-Asian Games and Asian Games and game specific national and international championships during the next five years of issue of policy and to give thrust to the games popular in rural areas of Haryana and to create an environment of competitiveness by organizing championships and tournaments at various levels, right from district level, and wherever desirable from village and Block level, to State level.

Rule 12.3 of the Punjab Police Rules, 1934 (as applicable to Haryana) provides for 3% direct recruitment from the source of Outstanding Sports Persons. The Haryana Government issued notification dated 14.12.2007 further to amend the Punjab Police Rules to their application in the State of Haryana called ‘the Punjab Police (Haryana Amendment) Rules, 2007’. In Rule 12.3, for sub-rule (2), the following sub-rule was substituted, namely:

“(2) 47% of posts of Sub-Inspectors shall be filled up by direct recruitment. In addition 3% of posts may be filled up by direct recruitment from the Outstanding Sports Persons who are recipients of Arjun Award of Government of India or Bhim Award of the State of

Haryana, winners of Gold/Silver/Bronze Medal in Olympics or winners of Gold/Silver/Bronze Medal in Commonwealth Games or Asian Games or winners of Gold Medal in Asian Championships conducted by recognized International/National Federations or winners of Gold/Silver Medal in SAARC Games or winners of Gold Medal in National Championships.”

The above Rule does not refer to any particular sport or game. So long as the aspirant is a winner of Gold Medal in Asian Championships conducted by recognized International/National Federations or winners of Gold/Silver Medal in SAARC Games or winners of Gold Medal in National Championships, he has a right of consideration. The amendment makes no reference to Sports Policy, 2001 of the State of Haryana, which has been re-engineered as Sports Policy, 2009.

The sports profile of respondents No.7 & 8 is mentioned in the written statement filed by Sh. Ram Kumar, IPS, Commandant, 5th Battalion Haryana Armed Police, Madhuban on behalf of respondents No.1 to 6. The achievements of respondent No.7 appointed as Sub Inspector are as under:

- “a. First position in weight category 90 Kg. in the 7th South Asian Men’s Bodybuilding Championship held at Kathmandu, Nepal from June 17-20, 2010;
- b. First position in weight category 90 Kg. in the World Bodybuilding and Physique Sports Federation held at Varansi City, UP, Indian from 27th October to 1st November, 2010;
- c. First position in weight category 100 Kg in the 50th Sr. National Bodybuilding Championship held at Guwahati on 09.05.2010; and

- d. First position in weight category 100 Kg. in the 51st Sr. National Bodybuilding Championship held at DAV School, Pusa Road, Karol bagh, New Delhi from 25th to 27th March, 2011.”

While that of respondent No.8 appointed as Constable are as follows:

- “a. First position in overall champion in Junior Mr. North India held at Karnal on 11.03.2012;
- b. Second position in weight category 70 Kg. in 223rd Senior Haryana State Body Building Championship held at Karnal on 19th March, 2011;
- c. Second position in weight category 75 Kg in 24th Senior Haryana State Body Building Championship held at Bhiwani on 11th March, 2012;
- d. First position in weight category 75 Kg. in 24th Senior Haryana State Body Building Championship held at Bhiwani on 18th March, 2012; and
- e. Participated in Mr. Haryana Body Building Championship held at Panchkula on 13th June, 2010.”

Their appointments have the approval of the Cabinet treating ‘Bodybuilding’ as falling in Outstanding Sports Person category.

The petitioner himself was an applicant under the 2005 advertisement for appointment in the Police Department and applied for the post of Constable under the Outstanding Sports Person in District Sonipat in the year 2006. He was weeded out of the selection process when his chest was measured short at 38”-39.5” and height at 5 feet 6 inch, which was short by 1 inch against the standard minimum height 5 feet 7 inch for enlistment

as Constable. He was accordingly declared unfit by the Recruitment Board, Jhajjar.

The petitioner says that he is a bodybuilder and had applied through that sport/game, but admittedly was unsuccessful unable to secure appointment. His height precludes him from appointment to Haryana Police and, therefore, he has no *locus standi* to challenge the selection of respondents No.7 & 8 from the category of OSPs -Bodybuilders.

Though this Court may not approve the selection of respondents No.7 & 8, when public advertisement and calling names from other eligible candidates, as may be available, was not resorted to, but these appointments are not open to challenge at the hands of the petitioner, who has not challenged the selection by seeking a writ of *quo warranto* and was himself unsuccessful in securing appointment as a Constable being deficient in chest expansion and height.

Moreover, the Police Department does not appear to be bound down to the sporting activities mentioned in the Sports Policy, 2009 and can always extend consideration to other games and sports and make appointments, which might invigorate the police force and inspire others to achieve high physical standards, of which Bodybuilding is one sport. Besides, no other person has approached this Court to challenge the selection of respondents No.7 & 8 complaining of violation of Article 16(1) of the Constitution and merely because Bodybuilding does not find mention as sport activity in the Sports Policy, 2009 would not be a ground to invalidate the appointments of respondents No.7 & 8.

It may be worth mentioning that according to the 2005 advertisement and selection process in which the petitioner participated, only those who have secured positions in National School Games, National level Tournaments organized by recognized National Federations or who have obtained 1st and 2nd position in State Level Tournaments organized by recognized State Federation/Association were eligible. It is not necessary to dilate on the sports certificate/achievements of the petitioner when a case for interference is not made out in the discretionary writ jurisdiction. It would be inequitable to consider annulment of the appointments of respondents No.7 & 8 at this stage when they are per se not illegal or beyond the power of the State to appoint persons of its choice keeping in view the special demands of the police force. These respondents have received training at much State expense and become permanent members of the disciplined force with a right to service and continued livelihood.

For the reasons recorded above, interference is not warranted and accordingly the petition is dismissed.

05.04.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>Yes</i>