

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

**Civil Writ Petition No. 12763 of 2017 (O&M)
Date of Decision: 24.08.2018**

Gurnam Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mrs. Sushma Sharma, Advocate for
Mr. Ramesh Sharma, Advocate
for the petitioner.

Mrs. Anu Chatrath Kapur, Additional Advocate General, Punjab
for the respondents/State.

JASWANT SINGH, J.

1. Instant petition has been filed under Article 226 and 227 of the Constitution of India seeking quashing of revised select list (**Annexure P-3**) and direction to the respondents to consider petitioner for the appointment of 'Constable' in Special Security Group (Special Protection Unit) in Armed Police Cadre of Punjab Police.

2. The respondent-Department vide advertisement dated 08.10.2016 (**Annexure P-1**), advertised 200 vacancies of Male Constables in the Special Security Group (Special Protection Unit) in Armed Police Cadre of Punjab Police. As per advertisement, 14 (fourteen) posts had to be filled from Ex-Servicemen (General Category). The respondent-Department, after completing all the formalities prepared a merit list of all the qualified candidates, who had taken part into physical measurement test, physical

trails and interview-cum-personality test. The respondent released select list of Ex-Servicemen (General Category) which included waiting list and name of the petitioner was appearing at Serial No. 3 in the said waiting list. Angrej Singh filed a writ petition bearing *CWP No. 465 of 2017* before this Court, which culminated into release of revised selection list of 14 (fourteen) candidates as well waiting list of three candidates. The name of Angrej Singh appeared in the list of selected candidates and name of the petitioner was deleted from the waiting list of three candidates.

3. The respondent issued revised select list which included name of four (04) candidates, namely, Arvinder Singh, Sarabjit Singh, Amrjit Singh and Joga Singh at serial No. 3, 4, 5 and 7. The name of these candidates was appearing at same serial number in the original select list. The name of Sikander Singh was appearing at serial No. 14 in the original list which was shifted to serial No. 1 of waiting list in the revised select list upon induction of Angrej Singh at merit position No. 10. The aforesaid four (04) candidates at merit position Nos. 3, 4, 5 & 7 joined as 'Constables' in District Police Cadre and did not wish to accept appointment in Armed Police Cadre. They conveyed this fact to the respondent still respondent included name of these candidates in the revised select list, resultantly name of the petitioner disappeared from the waiting list of selected candidates. Sikander Singh who was at merit No. 14 in the original selection list and at No. 1 in the waiting list upon the revised result had also given in writing his unwillingness to join in view of he having joined 6th IRB Ladda at Sangrur. Had respondent deleted name of aforesaid five (05) candidates, the petitioner as well as two (02) candidates shown in waiting list would fall within the zone of appointment against the fourteen (14) advertised posts for

ESM Category.

4. Learned counsel for the petitioner vehemently contended that the petitioner is entitled to appointment because five (05) candidates would not have joined and this fact was very well in the knowledge of the respondent still while preparing revised select list, name of these candidates were included which resulted into depriving the petitioner, being next in merit of five (05) candidates, from selection and appointment

Per contra, learned State Counsel, contended that entire selection process was transparent and there was no favoritism. The petitioner has no right of selection because his name was not appearing in main revised select list or waiting list of three candidates.

5. This Court, vide order dated 03.08.2018, recorded the fact that as per information supplied by the respondent-Department, five (05) out of select list did not join and the petitioner being next in merit of five (05) is entitled to appointment. The counsel for the respondents/State sought one week time to verify the aforesaid fact. The order dated 03.08.2018 is reproduced as under:-

“CWP No. 12763 of 2017

The conceded fact is that 14 posts of Male Constables to be recruited in the Special Security Group for the Armed Police Cadre of Punjab Police in the reserved category of Ex-Servicemen (General Category). No doubt the merit/select list for the 14 posts was revised as per R-3 and the petitioner did not fall within the three wait listed candidates, however, it is the contention of the petitioner that as per the RTI information supplied by the Department placed at Annexure P-4 with the replication, five out of the select list did not join and the petitioner thus being in first five of the waiting list is entitled to be offer

appointment.

Ms. Devki Anand Sullar, Assistant Advocate General, Punjab, prays for a weeks time to verify the aforesaid fact.

List on 24.08.2018.

To be shown in urgent. ”

6. After having heard arguments of both the counsel and scrutinized record of the case, this Court is of the opinion that present petition deserves to be allowed. The undisputed facts as emerge from record of the case are that respondent had to appoint fourteen (14) Constables against Ex-servicemen (General Category) and name of the petitioner was appearing at serial No. 3 in the original waiting list. It means he had fulfilled eligibility criteria, passed the qualifying tests and was found suitable for appointment, *albeit* placed at waiting list No. 3 being lower in merit. The merit list and the waiting list was recast in compliance of the directions passed by this Court. Concededly, four (04) candidates whose name are appearing at merit Nos. 3, 4, 5 & 7 of the revised merit list and two candidates i.e. Sikander Singh and Kulwinder Singh, who name figure at Sr. Nos. 1 & 3 of the revised waiting list have also not accepted to join, thereby admittedly three (03) posts in ESM (General) Category are lying vacant as per the information supplied by the respondent-department under RTI placed as **Annexure P-4 (colly)**. In other words, out of the revised select and waiting list of seventeen (17=14+3) candidates, only eleven (11) candidates have joined. It is also a conceded position that upon induction of Angrej Singh in the revised merit list, the petitioner had been pushed one place below in merit and thereby deleted from the original waiting list of three (03). Thus the petitioner after the preparation of the revised merit

list/waiting list is next in line of merit, and therefore falls within the zone of appointment against the fourteen (14) advertised vacancies in his category. Learned State Counsel, to a pointed query, as noticed in the aforesaid reproduced order dated 03.08.2018 has also not disputed the existing factual position. It is well settled law that if few candidates do not join, the unconsumed advertised vacancies/posts must be filled up from next in line merit candidates. The State Authorities cannot curtail waiting list inspite of the fact that selected/wait listed candidates have not joined to the extent of the advertised vacancies. The respondent has pleaded that selection process was transparent, whereas it appears that revised list was not prepared in transparent and prudent manner, but was prepared in a very casual and compounded manner. Thus the petitioner is held entitled to be appointed as “Constable” in his applied category as prayed for.

In view of aforesaid findings, the present petition is '**Allowed**'. The respondents are directed to enlist the petitioner as “Constable” within one week from the receipt of the certified copy of the orders, failing which the competent authority/officer concerned shall be liable for being hauled up in contempt proceedings.

This Court finds that present litigation could have been avoided, had the department officials applied their mind and acted in vigilant manner. They were given an opportunity to take remedial measures after hearing on 03.08.2018, however, they chose to be obstinate in their approach. Keeping in view totality of facts, costs of ₹ 25,000/- (Twenty Five Thousand only) are imposed upon respondents which shall be paid within one month from the date of receipt of certified copy of this order to

the Registry of this Court for depositing in the Juvenile Justice Welfare

Fund.

Since the main case has been decided, no orders are required to be passed in the pending miscellaneous application(s), if any, and the same stand(s) disposed of.

August 24, 2018

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**(JASWANT SINGH)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>