

204(8 cases)

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

COCP-1121-2015(O&M)

Date of Decision: March 13, 2019

Amaninder Kaur and others

.....Petitioners

Versus

Sumedh Singh Saini, Director General of Police, Punjab and another

.....Respondents

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.Gaurav Sharma, Advocate for the petitioners
in COCP Nos.1121 and 3215 of 2015 and 353 of 2016.
Mr.Premjit Singh Dhaliwal (Takhtupura), Advocate
for the petitioners in COCP No.992 of 2016
Mr.Gopal Singh Nahel, Advocate for the petitioners
in COCP Nos.2851 of 2015 and 2443 of 2018.
Mr.Saurabh Arora, Advocate for the petitioners
in COCP No.2309 of 2019
Mr.Surinder Garg, Advocate for the petitioners
in COCP No.1524 of 2016.

Ms.Sudeepti Sharma, Addl.AG, Punjab.

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NIRMALJIT KAUR, J. (ORAL)

This order shall dispose of COCP Nos.1121, 2851, 3215 of 2015, COCP Nos.353, 992, 1524 of 2016, COCP Nos.2309 and 2443 of 2018 as the issue involved is identical in all the matters. However, for convenience the facts are being taken from COCP No.1121 of 2015.

The contempt is filed for non-compliance, as also violation of the order dated 20.11.2014 passed in CWP No.22443 of 2011, which was disposed of on the basis of the order passed in CWP No.773-2012, decided on 31.01.2013 vide which the following direction was issued:

“In view of the above, the present writ petition is allowed. Direction is issued to the respondents to consider the claim of the petitioners for appointment as per the initial criteria

which was advertised on 03.10.2011 and if the petitioners make the grade, as per the said criteria, out of the candidates who had cleared the second stage, as per the then fixed criteria, appointment letters be issued to them within a period of one month. It goes without saying that the petitioners shall also be entitled to all the consequential benefits, except for the financial benefits.”

Thereafter, LPA No.1108 of 2014 filed against the judgment dated 31.01.2013 too was dismissed on 11.08.2014 upholding that criteria for selection cannot be changed in the mid-way causing prejudice to the petitioners and, therefore, they have to be considered as per the initial criteria which was advertised on 03.10.2011 and if the petitioners make the grade as per the said criteria they shall be issued the appointment letters.

Reply was filed and the last affidavit was filed on 16.08.2017 by the Inspector General of Police, Bathinda stating therein that the order has been fully complied with and case of each petitioner was considered separately and speaking orders have been passed qua each of them. Every petitioner who passed the Physical Efficiency Test as per the first criteria and was in merit and achieved the grade has been granted appointment.

Learned counsel for the petitioners in COCP No.1121 of 2015 submits that he does not wish to press the contempt petition qua petitioner Nos.1 and 3 as they did not clear the first criteria but wished to proceed with the matter qua petitioner No.2 as she had cleared the first criteria and, therefore, she was liable to be appointed. While pursuing the claim of petitioner No.2 Amandeep Kaur, learned counsel for the petitioners submitted that the respondents have filed false affidavit. Even those candidates who had not cleared the first criteria, were called for interview in

pursuance to the second criteria. Accordingly, on 08.03.2019, the

respondents were directed to file an affidavit by an Officer not less than the rank of Inspector General of Police clarifying as to how some of the petitioners, who had cleared the first criteria were dropped and their names did not find mention in the select list.

Today, the affidavit of Mr.M.M.Farooqui, IPS, Inspector General of Police, Bathinda Range, Bathinda has been filed. As per the said affidavit, the selection process comprised of three phases, i.e. Physical Measurement, Physical Efficiency Test and Interview. While the Physical Measurement Test was in progress at Faridkot, a fax message was received on 11.11.2011 from the Director General of Police, Punjab, intimating that the Physical Efficiency Test for recruitment of Female Constables had been relaxed and the details of the said relaxation was mentioned in the said standing order. As a consequence of the said message, even some of those candidates including some petitioners, who did not qualify the first criteria were also called to undergo the Physical Test under the relaxed criteria. Thereafter, all the eligible candidates for the various categories were called for the interview. The list of candidates called for the interview was also published in "Daily Ajit, Punjabi Tribunal and Panjab Kesri on 26.11.2011. Out of 1973 candidates called for the interview, 600 were selected and issued appointment letters. However, the second criteria was set aside vide order order and judgment dated 31.01.2013 passed in CWP No.773 of 2012. Accordingly, in compliance of the order dated 31.01.2013, a list of candidates as per the initial criteria was prepared. Thus, the total number of 1066 candidates were found to be eligible as per the initial criteria which was advertised on 03.10.2011. Out of these 1066 candidates, 845 had already been interviewed earlier in the year 2011 itself and the remaining

221 candidates were there who could not make it either on the basis of old criteria or on the basis of relaxed criteria. Hence, these 600 candidates out of 845, who had been called for the interview in the year 2011 and were also found eligible as per the initial criteria have been granted the appointment. Hence, the argument of the learned counsel for the petitioners that they had cleared the criteria but have not been granted appointment does not help as they in spite of having cleared the first criteria did not make the grade and obtained less marks than the last candidate, who was selected. The second argument that two unsuccessful candidates, namely, Baljit Kaur and Baljinder kaur were granted appointment in pursuance to the order passed by this Court on 31.01.2013 is no doubt correct but the petitioners cannot take advantage of the same in view of the fact that the said writ petition was restricted only to these two candidates and the Apex Court while restricting the same to these two candidates had further held that the said order will not be cited as a precedent in any other case. The order passed in SLP against the order passed in CWP No.773 of 2012 reads as under:-

“Delay condoned.

We are not inclined to entertain the special leave petition, which is dismissed.

As the directions issued by the learned Single Judge was confined to the contesting two private respondents alone, who were vigilant enough to challenge the change of the criteria in the midway of the selection, the relief granted shall be restricted to those two respondents alone and the order of the learned Single Judge as well as that of the Division Bench cannot be cited as a precedent in any other case.”

Thirdly, some of the candidates who were not selected,

challenged the relaxed/reduced criteria by way of writ petition. One of the writ petition bearing CWP No.1319 of 2012 titled as **Amandeep Kaur and others vs State of Punjab and others** was disposed of with a direction to file a representation to the Director General of Police to decide the same and with a further stipulation that in case the petitioners' allegations are not accepted they shall be at liberty to approach by way of impleading the selected candidates as a party-respondents. But, till date, none of the unsuccessful candidates has filed any petition impleading successful candidates as respondents.

Moreover, the respondents have passed separate speaking orders dated 28.12.2015, Annexure R-17 qua each of the unsuccessful candidate as is evident from para 29 of the affidavit dated 13.03.2019, which the petitioners have not challenged till date, despite the liberty to do so. This Court may also note that admittedly none of the candidates has been selected on the basis of the second criteria and all the candidates, so selected, were on the basis of the first criteria.

In this view of the above, this Court does not find any wilful disobedience of the order. Hence, all the contempt petitions are dismissed.

The rule issued against the respondents stands discharged.

Since the main cases stand dismissed, all the pending miscellaneous applications have been rendered infructuous and same are disposed of as such.

March 13, 2019
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(NIRMALJIT KAUR)
JUDGE

- 1. Whether speaking/reasoned ?**
- 2. Whether reportable ?**

Yes/No
Yes/No