

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision : July 5, 2021**

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3. **CWP-1642-2017**
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MANINDER SINGH VS. STATE OF PUNJAB & ANR

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : **For the petitioners :**

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 Mr. Amit Chopra, Advocate and
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 Mr. Ripudaman Singh Sidhu, Mr. Gourave Bhayyia Gilhotra,
 Mr. Jasvir Singh Dhaliwal, Ms. Kamalpreet Kaur Dhaliwal,
 Dr. Rau P. S. Girwar, Mr. Rajesh Narang, Mr. Rishav Jain,
 Mr. Rajeev K. Kapila, Ms. Satpreet Grewal Kapila,
 Mr. Tribhawan Singla, Mr. Sohan Singh Rana, Mr. Sumit Puri,
 Mr. Jaspreet Singh Brar, Mr. Vinod K. Kaushal,
 Mr. Krishan Singh Dadwal, Mr. Manish Dadwal,
 Mr. M. S. Atwal, Mr. Amandeep Singh Gulati,

Mr. B. B. S. Randhawa, Ms. Sonia G. Singh, Mr. Sushil Saini,
 Mr. L. M. Gulati and Ms. Jasneet Mehra, Mr. B. S. Aulakh,
 Mr. Ramandeep Singh, Mr. Naresh Kumar Manchanda,
 Mr. Amandeep Singh Cheema,
 Mr. Preetwinder Singh Dhaliwal,
 Mr. Bhupinderbir Singh Randhawa, Mr. Naresh Kumar Ganga,
 Mr. Bir Davinder Singh, Mr. Ajay Paul Singh, Mr. Liaqat Ali,
 Mr. Brijeshwar Singh Kanwar, Ms. Payel Mehta,
 Mr. Amrik Singh, Mr. M. N. Jajoria,
 Mr. Harish Goyal, Mr. Sardavinder Goyal,
 Mr. Manpreet Singh Longia, Mr. Amandeep Chhabra,
 Mr. Rajeev Dev Sharma, Mr. Munish Kumar Singla,
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 Mr. Ashish Aggarwal, Mr. Vaneet Kumar Sharma,
 Mr. Harvinder Singh Maan, Mr. Harchand Singh Batth,
 Mr. Baljinder Singh Ichhewal, Mr. Ajay Pal Singh Rehan,
 Mr. Sandeep Singh Majithia, Mr. B. S. Makar, Mr. H. S. Saggu,
 Mr. Lakhwinder Singh, Mr. Hemen Aggarwal, Mr. Jagjit Singh,
 Mr. Sanjeev Sharma, Mr. Pardeep Kumar, Mr. H. K. Barinda,
 Mr. Daman Jeet Bhoriwal, Mr. Puneet Kumar Bansal,
 Mr. Rajinder Mathur, Mr. J. N. Gupta, Mr. H. S. Jugait,
 Mr. Vakeel Singh Khosa, Dr. D. P. S. Randhawa,
 Mr. Amitoj Singh Dhaliwal, Mr. Sherry K. Singla,
 Mr. Kanwaljeet Singh Derabassi, Mr. Sanjeev Kumar,
 Ms. Anju Arora, Mr. Jagdish Singh Mahal, Mr. Arun Kaundal,
 Mr. Deepak Girotra, Mr. Vikas Gupta,
 Mr. Keshav Pratap Singh,
 Mr. Prateek Mahajan, Ms. Banni Chibber Mahajan,
 Mr. Baljinder Singh Khaira, Mr. Ritesh Pandey,
 Mr. Arun Takhi, Mr. R. S. Manhas, Mr. Yogesh Arora,
 Mr. Rishu Garg, Mr. Vivek Salathia, Mr. Ivneet Singh Pabla,
 Mr. JPS Sidhu, Mr. Gagan Oberoi,
 Mr. Harsimar Singh Sitta, Mr. Naresh Kumar,
 Mr. Ashok Kumar Sama, Mr. Aminder Singh,
 Mr. Amrik Singh Kalra, Mr. Padamkant Dwivedi,
 Mr. Sandeep Kumar Bakolia, Advocates.

For the State :

Mr. Vikas Mohan Gupta, Additional Advocate General, Punjab.

(Presence marked through Video Conference)

ARUN MONGA, J.

1. This common judgment pertains to a bunch of above numbered Writ Petitions (Civil) as the material questions for adjudication are the same or within the same ambit. *CWP-22985 of 2016 “Raghvir Singh and others*

Versus State of Punjab and others”, for convenience, is being treated as

lead matter in this bunch. All facts/pleadings/record and recitals are referred from the file of the lead matter.

2. Grievance of the petitioners, unsuccessful candidates, is qua the selection/ recruitment of police constables in Punjab Police. The respondents did not allegedly adhere to the terms and conditions specified in the relevant advertisement; thus acted illegally and unfairly and wrongly selected candidates lower in merit by rejecting the ones higher in merit.

3. During the preliminary hearing of the case, after issuance of notice, a Co-ordinate Bench of this Court, then seized of the matter passed following order dated 06.12.2016 :-

“Ms. Sudeepti Sharma, DAG, Punjab has put in appearance on behalf of the respondents/ State and prays for time to file reply. Service is complete. Adjourned to 22.03.2017. In the meanwhile, the selection and appointment of the Constables against advertised posts vide Advt. No. 01/2016, dated 31.05.2016, shall be subject to the decision of the writ petition.”

Entire selection is thus subject to final outcome of the instant writ petition.

4. Facts, in brief, as pleaded in the lead matter are as below :-

4.1. Respondent No. 2-Director General of Police, Punjab issued an advertisement on 31.05.2016 for recruitment of 7,416 constables (male/female) in District Police cadre and Armed Police cadre, specifying the eligibility requirements and the procedure and process for selection. The petitioners fulfilled the eligibility requirements and applied for the posts.

4.2. Per advertisement, from amongst the candidates who qualify the Physical Measurement and the Physical Screening Test, each Range/ Zonal/Commissionerate Recruitment Board, was to draw up a preliminary list separately for the District Police cadre and Armed Police cadre on the basis of marks obtained by the candidates in the height measurement and the

educational qualifications (30 marks). Thereafter, eligible candidates were to be called for interview-cum-personality test. Grievance is that without compliance of the requirement of interview-cum-personality test, the provisional merit list has been converted into final selection list, totally in violation of the advertised selection procedure.

4.3. Further, petitioners are aggrieved that the marking system prescribed in the advertisement is not upto the mark. The candidates who secured 50-60% in 10+2 examination have been put in same bracket/awarded same marks as those who secured 60-70% marks. This amounts to treating unequals as equal and is thus in violation of Article 14 of the Constitution of India. In the system adopted by the respondents, a candidate who has secured 50.33 marks is equated with the candidates who have secured 60% marks and this is not sustainable in law. The percentage of marks obtained by the petitioners in 10+2 examination, details of their height and combined total marks awarded to them for both metrics by the respondents, are as under:

Petitioner	Category	Marks (Marks allotted for %age)	Height/ Marks for height	Date of Birth	Total Marks
1	BC	75.33 (14)	5'-11"(14)	06.01.1997	28
2	BC	61.33(13)	6'-1"(15)	09.05.1993	28
3	General	68.60(13)	6'-5"(15)	24.01.1997	28
4	BC	62.33(13)	6'-0"(15)	08.11.1997	28
5	SC	82.00 (15)	5'-10.25"(13)	03.09.1996	28

4.4. Merit has been given a go by and less meritorious candidates have been selected but the petitioners have been ignored. Candidates who secured lesser marks than the petitioners in 10+2 examination and those shorter in height have been selected, in violation of the basic rule that merit is the only

criteria for selection.

4.5. The respondents have given preference to candidates older in age, over the younger candidates. No such condition had been prescribed in the advertisement.

4.6. Respondent No. 2 later issued a Standing Order No.1/2016 prescribing new conditions (dispensing with the interview). These conditions prescribed vide standing order are null and void as the same are not mentioned in the advertisement. It is the advertisement, which has to prevail. Moreover, it is the basic rule that merit is the only criteria for selection. In present case, by issuing the standing order, the merit has been given a go by.

4.7. In the event of two candidates securing equal marks selection should have been made on the basis of percentage of marks obtained by them in 10+2 examination and if percentage of their marks obtained in 10+2 examination is equal, then selection should have been made on the basis of height and not on the basis of seniority of age.

4.8. Para 9 of the Standing Order provides that the Director General of Police, Punjab shall be the Appellate Authority for any kind of redressal of grievance related to recruitment process. Any candidate having a grievance should make a representation in writing to the Director General of Police, Punjab within 30 days of the declaration of the result. The Director General of Police, Punjab may get the representation examined from the Chairperson of the Central Recruitment Board and take the final decision of the matter. Notwithstanding, that the result was though declared in October end, 2016 and yet, at the time of filing the writ petition on 03.11.2016, respondent No. 2 had already started the process of issuing appointment letters to the selected candidates. This shows politicization of recruitment, since the State assembly election were slated in 2017.

5. The prayer in the writ petition, inter alia, is for issuance of a writ of mandamus directing the respondents to take into consideration the higher marks secured by the petitioners in 10+2 examination and also to take into consideration the height of the petitioners and re-draw the final merit list declared in October, 2016 (Annexure P-3, P-4 and P-5) against advertisement Annexure P-1; direct respondent No. 2 to prepare the final seniority list in accordance with advertisement; issue a writ of certiorari quashing the conditions mentioned in Standing Order (Annexure P-2) envisaging that while preparing the combined final merit list, in the event of candidates securing equal marks, the candidates senior in age shall be put senior in the merit with a further direction that in the event of candidates securing equal marks, the candidates having higher marks in 10+2 shall be selected and in case the two candidates had secured equal marks in 10+2 examination, then their height shall be considered and seniority in age shall be the last criterion for giving preference with a further prayer that pending adjudication of the writ petition, respondent No. 2 be restrained from issuing appointment letters to less meritorious candidates.

6. During the pendency of proceedings, a co-ordinate bench then presided by my learned brother Augustine George Masih, J. vide an order dated 17.05.2017, gave following directions :-

“ Counsel for the respondents pray for and are granted eight weeks time to file replies with advance copies to the counsel opposite. Replication, if any, be filed within a further period of six weeks. This shall be last opportunity for all the parties and no further time shall be granted.

Direction is also issued to the State counsel to get the cases segregated as per the issues involved therein and submit a report/list in the Registry within eight weeks so that the grouping can be done and cases are listed accordingly.

List on 06.09.2017. A photocopy of this order be placed on the connected files.”

7. Pursuant to the above, a compliance report/affidavit dated 21.07.2017 was filed by State classifying the cases into 12 categories. Said categories appended as per lists contained in Annexures R-I to R-XII are as below :-

7.1. Annexure R-I

Civil Writ Petitions in which criteria challenged

- I) For determining merit in the eventuality of two or more candidates obtaining equal marks.
- II) Education marks slab system challenged.
- III) Non conducting interview challenged.

Sr. No.	Civil Writ Petition No.	Party Name	Next date of hearing	Name of the counsel for the petitioner
1.	CWP No. 22985 of 2016	Raghvir Singh and 4 others vs State of Punjab and others	6.9.2017	Mr. Sardavinder Goyal, Advocate, Ms. Archana Vashisht, Advocate for Mr. Padamkant Dwivedi, Advocate
2.	CWP No. 25258 of 2016	Sandeep Singh and others vs Director General of Police, Punjab	6.9.2017	Dr. Rau P. S. Girwar, Advocate
3.	CWP No. 1640 of 2017	Harjinder Singh and 14 others vs State of Punjab and another	6.9.2017	Mr. Kamaldip Singh Sidhu and A. S. Sidhu, Advocates
4	CWP No. 1641 of 2017	Manpreet Kaur and 3 others vs State of Punjab and another	6.9.2017	Mr. Kamaldip Singh Sidhu and A. S. Sidhu, Advocates
5	CWP No. 1649 of 2017	Manmeet Singh and 8 others vs State of Punjab and another.	6.9.2017	Mr. Kamaldip Singh Sidhu and A. S. Sidhu, Advocates
6	CWP No. 1642 of 2017	Jagjeet Singh and others vs State of Punjab and another	6.9.2017	Mr. Kamaldip Singh Sidhu and A. S. Sidhu, Advocates
7	CWP No. 23726 of 2016	Mandeep Singh and others vs State of Punjab and another	6.9.2017	Mr. Kamaldip Singh Sidhu and A. S. Sidhu, Advocates
8	CWP No. 2415 of 2017	Gagandeep Singh and others vs State of Punjab and others	6.9.2017	Mr. Gaurav Kalsi, Advocate and Mr. H. S. Batth, Advocate
9.	CWP No. 23838 of 2016	Manpreet Singh vs State of Punjab and another	6.9.2017	Mr. Jagjit Singh, Advocate

10.	CWP No. 26422 of 2016	Shikha Dadhwal vs State of Punjab and others	6.9.2017	Mr. R. S. Manhas, Advocate
11	CWP No. 714 of 2017	Sukhraj Singh vs State of Punjab and another	6.9.2017	Mr. Vivek Salathia, Advocate
12	CWP No. 23816 of 2016	Baljit Singh vs State of Punjab and others	6.9.2017	Mr. P. S. Dhaliwal, Advocate
13	CWP No. 3403 of 2017	Gurlal Singh vs State of Punjab and another	6.9.2017	Mr. Harvinder Singh Maan, Advocate
14	CWP No. 257 of 2017	Manjinder Singh and others vs State of Punjab and another	6.9.2017	Mr. Sardavinder Goyal and Sarwinder Goyal, Advocates
15	CWP No. 1702 of 2017	Gurcharan Singh and 17 others vs State of Punjab and another	6.9.2017	Mr. Kamaldip Singh Sidhu and A. S. Sidhu, Advocates
16	CWP No. 4826 of 2017	Gurpreet Singh vs State of Punjab and another	6.9.2017	Mr. Harvinder Singh Maan, Advocate
17	CWP No. 26543 of 2016	Lakhanvir Singh vs State of Punjab and others	6.9.2017	Mr. Kirpal Singh, Advocate for Mr. Vinod Kumar Kaushal, Advocate
18	CWP No. 6768 of 2017	Yogesh Kumar vs State of Punjab and another	6.9.2017	Mr. Naresh Kumar Ganga, Advocate
19	CWP No. 24493 of 2016	Vikramjit Singh vs State of Punjab and another	6.9.2017	Mr. Aminder Singh, Advocate
20	CWP No. 1728 of 2017	Avtar Singh vs State of Punjab and another	6.9.2017	Mr. Arun Kaundal, Advocate
21	CWP No. 23493 of 2016	Khushwant Singh vs State of Punjab and others	6.9.2017	Mr. M. K. Singla, Advocate
22	CWP No. 25291 of 2016	Harwinder Kaur vs State of Punjab and others	6.9.2017	Mr. Sardavinder Goyal, Advocate
23	CWP No. 24662 of 2016	Harjinder Singh vs State of Punjab and another	6.9.2017	Mr. Vikas Gupta, Advocate
24	CWP No. 25084 of 2016	Kamaljeet Singh and others vs State of Punjab and another	6.9.2017	Mr. Sardavinder Goyal, Advocate
25	CWP No. 24162 of 2016	Inderpal Singh vs State of Punjab and others	6.9.2017	Mr. K. G. Chaudhry, Advocate
26	CWP No. 1924 of 2017	Lovepreet Kumar vs State of Punjab and others	6.9.2017	Mr. Sumeet Puri, Advocate

27	CWP No. 883 of 2017	Sandeep Singh and others vs State of Punjab and others	6.9.2017	Mr. B. S. Makar, Advocate
28	CWP No. 26118 of 2016	Jagjit Singh vs State of Punjab and others	6.9.2017	Mr. H. K. Brinda, Advocate
29	CWP No. 6207 of 2017	Gagandeep Singh vs State of Punjab and others	6.9.2017	Mr. Naresh Kumar, Advocate
30	CWP No. 24276 of 2016	Ramandeep Singh and others vs State of Punjab and others	6.9.2017	Mr. Pardeep Singh Meerpur, Advocate
31	CWP No. 24113 of 2016	Harwinder Singh vs State of Punjab and others	6.9.2017	Mr. Sardavinder Goyal, Advocate
32	CWP No. 26566 of 2016	Sanpreet Singh vs State of Punjab and another	6.9.2017	Mr. Ivneet Singh Pabla, Advocate
33	CWP No. 25652 of 2016	Amandeep Singh vs State of Punjab and another	6.9.2017	Mr. Amitoj Singh Dhaliwal, Advocate
34	CWP No. 23998 of 2016	Arvind Singh vs State of Punjab and another	6.9.2017	Mr. N. K. Manchanda, Advocate
35	CWP No. 24921 of 2016	Sunil Kumar vs State of Punjab and others	6.9.2017	Mrs. Anju Arora, Advocate
36	CWP No. 5407 of 2017	Ishwar Singh vs State of Punjab and another	6.9.2017	Mr. Sandeep Kumar Bakolia, Advocate
37	CWP No. 23425 of 2016	Sumandeep Singh vs State of Punjab and another	6.9.2017	Mr. Ashish Aggarwal, Advocate
38	CWP No. 25146 of 2016	Chanderjit Singh and others vs Director General of Police, Punjab	6.9.2017	Mr. Deepak Girotra, Advocate
39	CWP No. 25493 of 2016	Hardeep Singh vs Director General of Police, Punjab and another	6.9.2017	Ms. Payel Mehta, Advocate
40	CWP No. 24180 of 2016	Prince Kumar and two others vs State of Punjab and others	6.9.2017	Mr. K. G. Chaudhary, Advocate
41	CWP No. 3251 of 2017	Kamaljeet Singh vs State of Punjab and another	6.9.2017	Mr. Bhupinderbir Singh Randhawa, Advocate
42	CWP No. 24000 of 2016	Manpreet Singh vs Director General of Police, Punjab	6.9.2017	Mr. Harsimran Singh Sitta, Advocate

43	CWP No. 1881 of 2017	Yadwinder Singh vs State of Punjab and another	6.9.2017	Mr. Pardeep Singh Mirpur, Advocate
44	CWP No. 2013 of 2017	Prabhdeep Singh vs State of Punjab and others	6.9.2017	Mr. S. P. Soi, Advocate
45	CWP No. 26255 of 2016	Upkar Singh vs State of Punjab and another	6.9.2017	Mr. J. S. Mahal, Advocate
46	CWP No. 4690 of 2017	Balkar Singh vs Director General of Police, Punjab and another	6.9.2017	Mr. M. N. Jajoria, Advocate
47	CWP No. 5307 of 2017	Mehakpreet Singh vs State of Punjab and others	6.9.2017	Mr. Arun Takhi, Advocate
48	CWP No. 26492 of 2016	Jaswinder Pal and others vs State of Punjab and others	6.9.2017	Mr. Rajeev Dev, Advocate
49	CWP No. 25223 of 2016	Rittu Rani vs State of Punjab and others	6.9.2017	Mr. Prateek Mahajan, Advocate
50	CWP No. 23849 of 2016	Krishna Kaur and others vs State of Punjab and another	6.9.2017	Mr. J.P.S. Sidhu, Advocate
51	CWP No. 24747 of 2017	Gurpreet Singh vs State of Punjab and another	6.9.2017	Mr. Amrik Singh Kalra, Advocate
52	CWP No. 24499 of 2016	Gurmanjeet Singh and four others vs State of Punjab and another	6.9.2017	Mr. Sandeep S. Majithia, Advocate
53	CWP No. 2486 of 2017	Surjit Singh vs State of Punjab and another	6.9.2017	Mr. Damanjeet Singh Bhorawal, Advocate
54	CWP No. 23474 of 2016	Pinky Devi vs Director General of Police, Punjab and others	6.9.2017	Mr. Brijeshwar Singh Kanwar, Advocate
55	CWP No. 872 of 2017	Guriqbal Singh vs State of Punjab and another	6.9.2017	Mr. Sardavinder Goyal, Advocate
56	CWP No. 23753 of 2016	Vishavjit Singh vs State of Punjab and another	6.9.2017	Mr. Munish Bhardwaj, Advocate
57	CWP No. 26023 of 2016	Kulwant Singh and others vs State of Punjab and another	6.9.2017	Sonia Singh Samber, Advocate
58	CWP No. 25040 of 2016	Daljit Singh vs State of Punjab and another	6.9.2017	Mr. Vaneet Kumar Sharma, Advocate
59	CWP No. 27390 of 2016	Gurleen Kaur vs State of Punjab and others	6.9.2017	Mr. Arun Takhi, Advocate

60	CWP No. 22974 of 2016	Rohit Singh and another vs Director General of Police, Punjab	6.9.2017	Dr. Rau P. S. Girwar, Advocate
61	CWP No. 24397 of 2016	Gurmeet Singh vs Director General of Police, Punjab	6.9.2017	Mr. Birdavinder Singh, Advocate
62	CWP No. 2546 of 2017	Vivek Dutta and others vs State of Punjab and others	6.9.2017	Mr. Ajaypal Singh, Advocate
63	CWP No. 24277 of 2016	Hardeep Singh and others vs State of Punjab and others	6.9.2017	Mr. Gurinder Singh Lalli, Advocate
64	CWP No. 23662 of 2016	Amarvir Singh vs State of Punjab and another	6.9.2017	Mr. K. G. Chaudhary, Advocate
65	CWP No. 24097 of 2016	Ekam Singh and others vs Director General of Police, Punjab	6.9.2017	Mr. Randeep Singh Rana, Advocate
66	CWP No. 26744 of 2016	Gurtej Singh vs Director General of Police, Punjab and another	6.9.2017	Mr. Sushil Saini, Advocate
67	CWP No. 25096 of 2016	Mangal Singh vs State of Punjab and others	6.9.2017	Mr. Padamkant Dwivedi & Anupma Sharma, Advocates
68	CWP No. 25059 of 2016	Manpreet Singh and others vs State of Punjab and another	6.9.2017	Mr. Kanwaljeet Singh Dera Bassi, Advocate
69	CWP No. 24297 of 2016	Sonu Singh and others vs Director General of Police, Punjab	6.9.2017	Dr. Rau P. S. Girwar, Advocate
70	CWP No. 23983 of 2016	Harjinder Singh and another vs State of Punjab and another	6.9.2017	Mr. Satbir Gill, Advocate
71	CWP No. 9061 of 2017	Mandeep Singh and others vs State of Punjab and others	6.9.2017	Mr. Harvinder Singh Maan, Advocate
72	CWP No. 9230 of 2017	Gurkirat Singh vs State of Punjab and another	6.9.2017	Mr. M. S. Tiwana, Advocate
73	CWP No. 24160 of 2016	Kuldeep Singh and others vs Director General of Police, Punjab.	6.9.2017	Dr. Rau P. S. Girwar, Advocate
74	CWP No. 25344 of 2016	Gurpreet Singh vs Director General of Police, Punjab	6.9.2017	Mr. Amandeep Chhabra, Advocate
75	CWP No. 428 of 2017	Sukhpal Singh Mann vs State of Punjab and another	6.9.2017	Mr. R. K. Chopra, Mr. Amit Chopra & Pawan Kumar, Advocates

76	CWP No. 23551 of 2016	Balraj Singh and another v/s Director General of Police, Punjab and another	6.9.2017	Mr. Yogesh Arora, Advocate
77	CWP No. 25228 of 2016	Kamaldeep Singh vs State of Punjab and another	6.9.2017	Mr. Harish Goyal, Advocate
78	CWP No. 26725 of 2016	Maninder Singh v/s State of Punjab and another	6.9.2017	Mr. Ramandeep Singh, Advocate
79	CWP No. 26981 of 2016	Jatinder Singh vs Director General of Police, Punjab	6.9.2017	Mr. Gagan Oberoi, Advocate
80	CWP No. 6426 of 2017	Arshdeep Singh and others v/s Director General of Police, Punjab	6.9.2017	Dr. Rau P. S. Girwar, Advocate
81	CWP No. 2285 of 2017	Raveen Kumar and another vs State of Punjab and others	6.9.2017	Mr. Arun Takhi, Advocate
82	CWP No. 2860 of 2017	Sandeep Singh and Another v/s State of Punjab and another	6.9.2017	Mr. Rishu Garg, Advocate
83	CWP No. 4188 of 2017	Satnam Singh v/s State of Punjab and another. (Reply to be filed by the Chairman of Recruitment board constituted for Special Security Group)	6.9.2017	Mr. Gaurav Singla, Advocate
84	CWP No. 23497 of 2016	Gagandeep Singh and 4 others vs State of Punjab and others	6.9.2017	Mr. Preetwinder Singh, Advocate
85	CWP No. 5601 of 2017	Gurwinder Singh and Another vs State of Punjab and another	6.9.2017	Mr. Naveen Kaushik, Advocate

Annexure R-I thus includes lead matter being CWP No. 22985/2016, filed by Raghvir Singh and others, wherein the petitioners have also alleged that the candidates who secured lesser marks in 10+2 examination than the petitioners and those lesser in height than the petitioners, have been selected. Some of the candidates in the above list (R-I) have also raised grievance qua wrong measurement of height, though not so emphatically as certain other category of candidates. Predominantly, challenge is to the criteria adopted

for the entire selection.

7.2. Annexure R-II

Civil Writ Petitions in which criteria for determining merit in eventuality of two or more candidates obtained equal marks has been challenged and averred incorrect measurement of Height.

Sr. No.	Civil Writ Petition No.	Party Name	Next date of hearing	Name of the counsel for the petitioner
1.	CWP No. 25671 of 2016	Rakesh Kumar S/o Sh. Guraditta vs State of Punjab and another	6.9.2017	Mr. Ashok Kumar Sama, Advocate
2.	CWP No. 25244 of 2016	Rani Pal Kaur v/s State of Punjab and others	6.9.2017	Mr. Ajay Paul Singh Jangu, Advocate
3.	CWP No. 25239 of 2016	Raman Rani vs State of Punjab and others	6.9.2017	Mr. Vakeel Singh Khosa, Advocate
4.	CWP No. 900 of 2017	Lovepreet Singh and others vs Director General of Police, Punjab.	6.9.2017	Dr. Rau P. S. Girwar, Advocate

7.3. Annexure R-III

Civil Writ Petitions in which petitioners have applied in ESM, SC category or ST category and not filled up sub-option i.e. SC (R&O) and SC (M&B).

Sr. No.	Civil Writ Petition No.	Party Name	Next date of hearing	Name of the counsel for the petitioner
1	CWP No. 2208 of 2017	Jaimal Singh vs Director General of Police, Punjab and another	6.9.2017	Mr. Manmeet Singh Rana, Advocate
2	CWP No. 25037 of 2016	Nirbhay Singh vs State of Punjab and others	6.9.2017	Mr. N. K. Manchanda, Advocate
3	CWP No. 2247 of 2017	Kapil Dev vs Director General of Police, Punjab and another	6.9.2017	Mr. Manmeet Singh Rana, Advocate

7.4. Annexure R-IV

Civil Writ Petitions in which petitioners have averred that their height has

been incorrectly measured.

Sr. No.	Civil Writ Petition No.	Party Name	Next date of hearing	Name of the counsel for the petitioner
1	CWP No. 5958 of 2017	Jagtar Singh vs State of Punjab and others	6.9.2017	Mr. H. S. Doel, Advocate
2.	CWP No. 1694 of 2017	Deepak v/s State of Punjab and another	6.9.2017	Mr. Manoj Kumar, Advocate for Mr. H. P. S. Ishar, Advocate
3	CWP No. 27250 of 2016	Gurjit Singh and another vs Director General of Police, Punjab.	6.9.2017	Mr. Manmeet Singh Rana, Advocate

7.5. Annexure R-V

Civil Writ Petitions in which petitioners averred to consider their recruitment cases in 2% quota reserved for Ward of Police Personnel.

Sr. No.	Civil Writ Petition No.	Party Name	Next date of hearing	Name of the counsel for the petitioner
1	CWP No. 24332 of 2016	Lovepreet Sharma v/s State of Punjab and others	6.9.2017	Mr. Harinder Sharma, Advocate

7.6. Annexure R-VI

Civil Writ Petitions in which criteria for determining merit in eventuality of two or more candidates obtained equal marks has been challenged and claiming 2 marks for service rendered in special forces i.e. NSG etc..

Sr. No.	Civil Writ Petition No.	Party Name	Next date of hearing	Name of the counsel for the petitioner
1	CWP No. 24269 of 2016	Gobind Das Singh and others v/s Director General of Police, Punjab	6.9.2017	Mr. Randeep Singh Rana, Advocate
2	CWP No. 3652 of 2017	Mangal Singh vs Director General of Police, Punjab and others	6.9.2017	Mr. Randeep Singh Rana, Advocate

7.7. Annexure R-VII

Civil Writ Petitions in which criteria for determining merit in eventuality of two or more candidates obtained equal marks has been challenged and Reservaton policy, eligibility criteria for Ex-Servicemen challenged.

Sr. No.	Civil Writ Petition No.	Party Name	Next date of hearing	Name of the counsel for the petitioner
1	CWP No. 5853 of 2017	Dalip Singh v/s State of Punjab and another	6.9.2017	Mr. Pardeep Singh Mirpur, Advocate
2	CWP No. 625 of 2017	Lakhvir Singh and others vs State of Punjab and others	6.9.2017	Mr. Pardeep Singh Meerpur, Advocate
3	CWP No. 4395 of 2017	Malkeet Singh vs State of Punjab and another	6.9.2017	Mr. Pardeep Singh Meerpur, Advocate
4	24345 of 2016	Resham Singh and another vs State of Punjab and another	6.9.2017	Mr. Pardeep Singh Meerpur, Advocate
5	497 of 2017	Jaspal Singh and others vs State of Punjab and another	6.9.2017	Mr. Pardeep Singh Meerpur, Advocate
6	2384 of 2017	Ramesh Singh vs State of Punjab and others	6.9.2017	Mr. Pardeep Singh Meerpur, Advocate

7.8. Annexure R-VIII

Civil Writ Petitions in which criteria for determining merit in eventuality of two or more candidates obtained equal marks has been challenged and claiming 2% reservation for ward of police personal.

Sr. No.	Civil Writ Petition No.	Party Name	Next date of hearing	Name of the counsel for the petitioner
1.	CWP No. 24748 of 2016	Harwinder Singh v/s Director General of Police, Punjab.	6.9.2017	Mr. Rajan Bansal & Mr. Rahul Prashar, Advocates

7.9. Annexure R-IX

Civil Writ Petitions in which criteria for determining merit in eventuality of two or more candidates obtained equal marks, measurement of height and

reservation policy for Wards of Police Personnel also challenged.

Sr. No.	Civil Writ Petition No.	Party Name	Next date of hearing	Name of the counsel for the petitioner
1.	CWP No. 25754 of 2016	Ranjit Singh v/s State of Punjab and another	6.9.2017	Mr. Vipin Mahajan, Advocate

7.10. Annexure R-X

Civil Writ Petitions in which petitioners claim that they applied in lineal descendent of Ex-servicemen SC category but wrongly considered by the respondents in SC (R&O) category.

Sr. No.	Civil Writ Petition No.	Party Name	Next date of hearing	Name of the counsel for the petitioner
1	CWP No. 811 of 2017	Sandeep Singh vs Director General of Police and another	6.9.2017	Mr. Randeep Singh Rana, Advocate
2	CWP No. 2518 of 2017	Harpreet Singh and 2 others vs State of Punjab and others	6.9.2017	Mr. Sohan Singh Rana, Advocate

7.11. Annexure R-XI

Civil Writ Petitions in which petitioner have claimed freedom fighter quota.

Sr. No.	Civil Writ Petition No.	Party Name	Next date of hearing	Name of the counsel for the petitioner
1.	CWP No. 25303 of 2016	Bikram Singh Kala v/s State of Punjab and another.	6.9.2017	Mr. Rajesh Narang, Advocate

7.12. Annexure R-XII

Civil Writ Petitions in which petitioner claim that they were selected in the provisional merit list but thereafter rejected.

Sr. No.	Civil Writ Petition No.	Party Name	Next date of hearing	Name of the counsel for the petitioner
1	CWP No. 25690 of 2016	Balwinder Singh v/s State of Punjab and others	6.9.2017	Mr. Krishan Singh Dadwal & Mr. Manish Dadwal, Advocates

2	CWP No. 3036 of 2017	Manjit Kaur vs State of Punjab and others	6.9.2017	Mr. Gurmeet Singh, Advocate
3	CWP No. 720 of 2017	Balwant Singh and Another v/s Director General of Police, Punjab.	6.9.2017	Mr. Randeep Singh Rana, Advocate

8. Against the aforesaid categorization from Annexures R-I to R-XII, carried out as per compliance report dated 21.07.2017 filed in pursuant to order dated 17.5.2017, none of the petitioners filed any objection to the report of categorization. It would therefore be safe to assume that the aforesaid categorization has been accepted to be in order by the petitioners.

8-A. Subsequent to filing of the aforesaid compliance report, the matter was heard by my learned sister Daya Chaudhary, J. (as she then was) and following order dated 04.12.2017 was passed :-

“Learned State counsel on instructions from Sh. Jasdeep Singh Saini, IPS Asstt. Inspector General of Police, submits that in case the height of some candidates has been remeasured and they fulfill the criterion of height and other requirement, the appointment letters will be issued to them within a period of ten days. All such candidates who are having grievance regarding measurement of height are required to appear before the Medical Board to be constituted for this purpose on 12.12.2017. In case after re-measurement of their height the candidates who will be found eligible as per criteria, will be offered appointment within a period of two weeks thereafter.

After hearing the arguments of learned counsel for the parties at length it is necessary for the Court to reach at some conclusion as to what was the object to change the criteria by doing away interview and also for appointment to the post of constables as to whether preference was given either to educational qualification or physical test and how the merit was prepared of those candidates who were having equal marks.

The respondents are directed to file a specific affidavit as to how many posts have not been filled up and how many posts are lying vacant out of total posts advertised. It should also be mentioned as to whether marks for physical test were given preference viz a viz educational qualifications. The affidavit be filed within a period of two weeks.

The relevant record of the case where decision with regard to aforesaid facts was taken be brought in the Court on the next date of hearing.

Adjourned to 20.12.2017.

Meanwhile learned State counsel is directed to file reply in the cases where it has not been filed. A copy of the order be given to the State counsel under signatures of Bench Secretary. A photocopy of this order be also placed on other connected files."

In compliance of the above order, an affidavit / compliance report dated 20.12.2017 was filed by Shri Jasdeep Singh Saini, Assistant Inspector General of Police, Personnel-II, CPO, Punjab.

9. Thereafter, the matter was heard by my learned brother Jitendra Chauhan, J. (as he then was) and after perusal of the affidavit/ compliance report dated 20.12.2017, following order dated 05.02.2018 was passed:-

"As per affidavit dated 20.12.2017 filed on behalf of Assistant Inspector General of Police, Personnel-II, CPO, Punjab three vacancies each in the District Police Cadre-Male and Armed Police Cadre-Male have been shown whereas, in District Police Cadre-Female, six vacancies have been shown to be available. Further, the vacancies shown as available in all the three categories are stated to be reserved for the wards of police personnel and as on date, there is no vacancy lying vacant.

On behalf of the petitioners, it is asserted that certain writ petitions were filed where the assertion was that their height has wrongly been measured. A direction in such petitions was issued for re-measurement. After having carried out re-measurement, appointments were given to certain candidates.

In the circumstances, the State is directed to file a short affidavit reflecting the details as to on which date, after the declaration of result on 26.10.2016, the subsequent vacancies were filled-up. The needful be done within a week.

Post again on 12.02.2018. The cases shall be taken up at 2.00 p.m.

Photocopy of this order be placed on the connected file(s)."

On 12.02.2018, following order was passed by the same co-ordinate bench:-

"Learned State counsel informs that the necessary information in pursuance to the last order could not be collected.

Post again on 09.03.2018.

The learned State counsel is directed to ensure that all the necessary information with regard to factual aspect of the matter is filed along with the supporting documents, at least three days prior to the next date of hearing.

It is further directed that in the writ petitions where the

height is the only issue or one of the issues, all such candidates will be re-measured on the dates notified to the candidates.

The cases shall be taken up at 2.00 p.m.

Photocopy of this order be placed on the connected file(s)."

Pursuant to the above order, another compliance report/affidavit dated 06.03.2018 was filed by the Assistant Inspector General of Police, Punjab.

10. Compliance reports/ affidavits dated 20.12.2017 and 06.03.2018 are more in the nature of the defence taken by official respondents and are thus being treated/taken as their response/written reply to the writ petition. No further response/rejoinder has been filed by the petitioners to any of the compliance reports/ affidavits filed by the State.

11. Following stand has been taken by the respondents in their compliance report/response dated 20.12.2017:-

11.1. The height of 9 candidates, who had filed the writ petitions challenging the measurement of their height, was got remeasured from the Board of Doctors of Government Multi Specialty Hospital, Sector 16, Chandigarh. On re-measurement of their height, the following three petitioners were found entitled to selection on merit and they would be offered appointment:

S.No.	CWP No.	Name
1	1694/2017	Deepak (SC/R&O)
2	25754/2016	Ranjit Singh (General)
3	22415/2017	Gurpreet Kaur (BC)

11.2. It is pleaded that the conducting of interview-cum-personality test was dispensed with pursuant to a policy of the Central Government adopted by the State Government, for not conducting interview for Group B (non-gazetted), Group C and Group D posts. As no interview was conducted,

there was no possibility of any discrimination with any candidate by awarding marks arbitrarily and subjectively in the interview.

11.3. Pursuant to orders of this Court, the following eight candidates came into the selection zone and were to be adjusted:

Sr. No.	CWP/Representation case	Name of candidate	Category	Type of case
1	16236/2017	Balkaran Singh	General	Height measurement case
2	14966/2017	Amandeep Singh	General	Height measurement case
3	10269/2017	Gurjeet Singh	General	Height measurement case
4	CM 11109-11110 in CWP 1702/2017	Vijay Kumar (Petitioner No.12)	General	Height measurement case
5	10.08.2017	Sukhwinder Singh	ESM BC	Height measurement case
6	11.07.2017	Chandan Kumar	General	Height measurement case
7	23983/2017	Sukhveer Kaur	General	Height measurement case
8	22642/2017	Sandeep Kumar	WFF	Height measurement case

11.4. Physical Screening Test (PST) was of only qualifying nature and provisional merit list was prepared on the basis of marks obtained in height measurement (PMT) and educational qualifications.

12. In subsequent compliance report/affidavit dated 06.03.2018, it has been, *inter alia*, deposed as under :

“3. That in compliance of order passed by the Hon’ble High Court on 12.02.2018, it is submitted that height of the following 10 petitioners, who have filed writ petitions challenging the measurement of their height or incorrect measurement of height, is one of the issues in their writ petitions, have been referred to the Principal Medical Officer, Multi Speciality Government Hospital, Sector-16, Chandigarh for re-measurement by constituting a board of doctors:

S.No.	CWP	Name	Father name
1	10917/17	Jobanpreet Singh	Lakhbir Singh
2	2338/17	Davinder Kumar	Bishamber Dass
3	3197/17	Ravinder Singh	Harpal Singh
4	24125/17	Varinderpal Singh	Hakam Singh
5	20179/17	Manjinder Singh	Jasmeet Singh

6	2698/17	Buta Singh Lakhbir Singh Balvir Singh	Nanak Singh, Bachint Singh, Gurdev Singh
7	47879//18	Pinky Devi	Bakil Singh
8	3211/18	Amarjit Singh	Gurcharan Singh

Recruitment cases of above said petitioners will be considered as per measurement report of the Principal Medical Officer, Multi Specialty Govt. Hospital, Sector 16, Chandigarh."

12.1. That after the publication of advertisement Annexure P-1, Komal Kumar and 27 other petitioners had filed a CWP No. 12661/2016 (later dismissed as withdrawn on 19.09.2016) challenging the clause for conducting interview-cum-personality test and asserting that conducting of interview for class C and D posts was contrary to Central and Punjab State Governments' instructions. Keeping in view the likelihood of more such future litigation on that ground, this aspect was discussed with the State Government and after consideration by the Punjab Government, the approval given for conducting interview for recruitment of Sub Inspectors and Constables was withdrawn by the Department of Home Affairs & Justice. In this regard, publicity was made as per news item dated 30.09.2016, Annexure R-4(English translation R-4/T). Amendment was accordingly made by respondent No.2 in Standing Order No.1/2016 substituting the Interview-cum-Personality Test with 'document verification'. Combined provisional merit list was prepared on the basis of marks obtained by candidates in height measurement (PMT) and educational qualifications. Physical Screening Test (PST) was only of qualifying nature, which is in consonance with the State Government instructions dated 28.03.2016, which is already annexed as Annexure R-1.

12.2. While preparing the Statewide preliminary merit list, in the event of two candidates securing equal marks, the following tie-resolution criteria

was to be adopted:

- (a). In the event of the candidates having equal marks, the candidate senior in age shall be put higher in the Merit.
- (b). In the event of the candidates having equal marks and having same date of birth, then their relative merit shall be prepared on the basis of percentage of marks obtained in the 10+2 examination and the candidate having higher percentage of marks in the 10+2 examination, shall be placed higher in the Merit.
- (c). In the event of the candidates having equal marks, same date of birth, same percentage of marks in the 10+2 examination, then their relative merit shall be prepared in the descending order of the Roll numbers assigned to the candidates.

12.3. Three Provisional Selection Lists of the candidates, one each for District Police Cadre (Males), District Police Cadre (Females) and Armed Police Cadre shall be prepared category-wise (by factoring in laid down reservations for various categories) on the basis of the Statewide Preliminary Merit Lists prepared in the above manner and the category-wise number of vacancies. Allotment between District Police Cadre and Armed Police Cadre will be done on the basis of total marks obtained by the candidates in the Recruitment Test (i.e. a total of marks for Height and marks for Educational Qualifications) and the preferences given by him in his application form. Since the District Police Cadre is a combined cadre of both Male and the Female Constables, therefore, the two Provisional Selection Lists pertaining to the District Police Cadre (Males) and District Police Cadre (Females) would be combined to include both the Male as well as Female candidates

and a single provisional Selection List shall be prepared, category-wise for District Police Cadre as a whole.

12.4. As no interview was conducted, there was no possibility of any discrimination with any candidate by awarding marks arbitrarily or subjectively in the interview.

12.5. It is further pleaded that Physical screening test (PST) was of only qualifying nature and provisional merit list was prepared on the basis of the marks obtained by the candidates in height measurement (PMT) and educational qualifications.

13. Subsequent to the filing of the compliance reports/ affidavits, my learned brother Jitendra Chauhan, J. (as he then was) gave directions vide order dated 25.04.2018, directing the State to carry out an exercise to re-measure the height of every candidate, whether selected or rejected, under videography and re-determine the merit list. Said order dated 25.4.2018 is reproduced as under:-

“In CWP-4188-2017 learned State counsel submits that the present petition has no connection with the batch of petitions and the same may be segregated.

Ordered accordingly.

Vide order dated 23.03.2018, this Court directed the State for carrying out re-measurement on all the aggrieved petitioners. In pursuance of the order, a schedule was put on the official website and remeasurement upon 36 number of candidates indicated in the chart supplied during the course of hearing, which is taken on record as Mark 'A', were carried out. On completion of the exercise, out of 36 candidates, there is a variance of height with regard to 09 candidates which prima facie indicates that the team of officials deputed by the State regarding measurement either was not qualified or vigilant and thus due diligence was not observed. This high percentage of variance indicates gross negligence on the part of the recruiting agency which has put a large number of petitioner/candidates at a disadvantageous position.

*In this view of the matter, the Court feels that complete justice has not been done to the petitioners/candidates. In view of the above, it is ordered that re-measurement of all the candidates including the selected ones be carried out in the light of guidelines issued by this Court in CWP-23875-2016 decided on 21.11.2016 in case of **Sonu***

Singh Vs. State of Haryana and others. The State will again issue a notification to all the aggrieved candidates irrespective whether they have approached this Court or any other authority or not. The necessary exercise of re-measurement be carried out under the supervision of a senior IPS officer not below the rank of Inspector General of Police. The videography of re-measurement be also carried out.

Post again on 13.07.2018. Photocopy of this order be placed on the connected file(s)."

After passing of the above order dated 25.04.2018, a Review Application No. 155 of 2018 in CWP No. 22985 of 2016 dated 30.5.2018 was filed by the State with the following stand/ prayer:-

"3. It is submitted here that the respondent State has been directed vide interim orders in different petitions to re-measure the heights of candidates who approached the Hon'ble Court. Approximately 41 CWPs were filed by aggrieved candidates and 18 candidates submitted their representations before DGP Punjab for re-measurement of height. Height of 76 candidates was re-measured and height of 31 candidates was found in variance. This is a miniscule figure and may be seen out of list of 1,81,380 number of candidates. It is further respectfully prayed that while passing order dated 25.4.2018, result of re-measurement of height of 36 candidates was placed before this Hon'ble Court and this Hon'ble High Court held that there is a variance of height with regard to 09 candidates which prima facie indicates that the team of officials deputed by the State regarding measurement either was not qualified or vigilant and thus due diligence was not observed. Height of total 90 candidates was re-measured and height of 45 candidates was found in variance. However, it is respectfully prayed that above variance in height measurement may kindly be counted out of the list of 1,80,380 candidates.

4. That in view of this, it is requested that the State will inform all the candidates and all those who are aggrieved, can present themselves before the Committee headed by an IGP rank IPS officer and get their height re-measured. It will be done as per the guidelines issued by this Court in CWP -23875-2016 decided on 21.11.2016 in case of Sonu Singh Vs State of Haryana and others."

The review application was dismissed on 2.7.2018, leading to challenge of the above order vide an intra court appeal bearing LPA No. 1263 of 2018

State of Punjab and others vs Raghvir Singh and others. The Appellate

Bench of this Court stayed the operation of the order under challenge.

Subsequently, LPA was disposed of and the matter was remitted to be heard by the learned Single Judge vide an order dated 19.03.2021. The operative part of said LPA order reads as under:-

“At the time notice was issued in the instant LPA, by way of interim order dated 10.9.2018, operation of order of learned Single Bench was stayed. We have proposed the counsel that the matter needs to be relegated to learned Single Judge for final decision of the writ petition in question. They have no objection to this.

Certain applications have been moved for impleadment. Same be also put up before learned Single Bench. It is evident that by virtue of the impugned order, general directions have been given for re-measurement of all candidates including selected ones. Said order be kept in abeyance till the decision of the writ petition.

As all the counsel are satisfied with the aforesaid order, we dispose off the matter in the above terms.”

It is in this background that matter was remanded back for final disposal instead of implementing interim directions, which have been kept at abeyance till the final adjudication of writ petition.

14. Following 105 cases, filed subsequent to earlier categorization, have been categorised/grouped by the Registry of this court on the same pattern as was done vide compliance report, supra, per categories/annexures R-I to R-XII :-

14.1. Annexure R-1

Civil Writ Petitions in which criteria challenged

- I) For determining merit in the eventuality of two or more candidates obtaining equal marks.
- II) Education marks slab system challenged.
- III) No conducting interview challenged.

S.No.	CWP No.	Case Year
1.	28694	2017
2.	863	2018
3.	13271	2018
4.	19313	2017
5.	6697	2019
6.	25201	2016
7.	28344	2017

14.2 Anneuxre R –II

Civil Writ Petitions in which criteria for determining merit in eventuality of two or more candidates obtained equal marks has been challenged and averred incorrect measurement of Height.

S.No.	CWP No.	Case Year
1.	636	2018
2.	742	2018
3.	1131	2018
4.	5698	2018
5.	5818	2018
6.	29948	2017
7.	6323	2018
8.	7428	2018
9.	8503	2018
10.	4699	2018
11.	9217	2018
12.	12832	2018
13.	18591	2018
14.	18797	2018
15.	9304	2017
16.	9735	2017
17.	10524	2017
18.	10545	2017
19.	12678	2017
20.	14136	2017
21.	14872	2017
22.	17090	2017
23.	17162	2017
24.	18771	2017
25.	19356	2017
26.	19410	2017
27.	23675	2017
28.	24299	2018(sick) 2017
29.	24542	2017
30.	24659	2017
31.	20659	2018
32.	23690	2018
33.	25328	2018
34.	25839	2018
35.	26218	2018
36.	27658	2018
37.	936	2019
38.	9920	2019
39.	7086	2021
40.	9530	2017
41.	26927	2017
42.	20925	2019
43.	30785	2019

44.	32881	2019
45.	6271	2021
46.	7086	2021
47.	12890	2019

14.3 Annexure R-III

Civil Writ Petitions in which petitioners have applied in ESM, SC category or ST category and not filled up sub-option i.e. SC (R&O) and SC (M&B).

S.No.	CWP No.	Case Year
1.	10904	2017
2.	11005	2017
3.	6799	2019
4.	8767	2019
5.	3794	2019
6.	33325	2019

14.4 Annexure R-IV

Civil Writ Petitions in which petitioners have averred that their height has been incorrectly measured.

S.No.	CWP No.	Case Year
1.	29155	2017
2.	29921	2017
3.	7713	2018
4.	9299	2018
5.	9462	2018
6.	9635	2018
7.	9698	2018
8.	9924	2018
9.	17047	2018
10.	18632	2018
11.	19521	2016
12.	5829	2018
13.	20179	2017
14.	9241	2018
15.	28390	2018
16.	33417	2018
17.	20390	2020
18.	11586	2020
19.	20931	2019
20.	11586	2020(sick) at sr. no.18 also
21.	20390	2020(sick) at sr. no.19 also

14.5 Annexure R-V

Civil Writ Petitions in which petitioners averred to consider their

recruitment cases in 2% quota reserved for Ward of Police Personnel.

S.No.	CWP No.	Case Year
1.	20844	2020

14.6 Annexure R-VI

Civil Writ Petitions in which criteria for determining merit in eventuality of two or more candidates obtained equal marks has been challenged and claiming 2 marks for service rendered in special forces i.e. NSG etc.

NIL.

14.7 Annexure R-VII

Civil Writ Petitions in which criteria for determining merit in eventuality of two or more candidates obtained equal marks has been challenged and Reservation Policy, eligibility criteria for Ex-Servicemen challenged.

S.No.	CWP No.	Case Year
1.	29697	2017
2.	12039	2018
3.	12833	2018
4.	28446	2017
5.	6820	2018
6.	6873	2019

14.8 Annexure R-VIII

Civil Writ Petitions in which criteria for determining merit in eventuality of two or more candidates obtained equal marks has been challenged claiming 2% reservation for wards of Police Personnel.

S.No.	CWP No.	Case Year
1.	13232	2018
2.	18529	2018
3.	18839	2018

14.9 Annexure R-IX

Civil Writ Petitions in which criteria for determining merit in eventuality of two or more candidates obtained equal marks, measurement of height and

reservation policy for Wards of Police Personnel also challenged. NIL.

14.10 Annexure R-X

Civil Writ Petitions in which petitioners claim that they applied in lineal descendent of Ex-servicemen SC category but wrongly considered by the respondents in SC (R&O) category.

S.No.	Case No.	Case Year
1	15697	of 2017

14.11 Annexure R-XI :Civil Writ Petitions in which petitioner have claimed freedom fighter quota:- NIL.

14.12 Annexure R-XII

Civil Writ Petitions in which the petitioners claim that they were selected in the provisional merit list but thereafter rejected.

S.No.	CWP No.	Case Year
1.	3575	2017
2.	18497	2017
3.	12381	2017

14.13 Annexure-A (new category)

Civil Writ Petitions in which the ground/s for petitioners' claim is/are other than those of the cases in lists Annexure R-I to R-XII

S.No.	CWP No.	Case Year	Remarks
1.	2378	2021	Civil Writ Petitions in which quashing of clause 9 of Advertisement i.e. condition of Education 10+2 challenged.
2.	30002	2019	
3.	18827	2018	Civil Writ Petitions in which petitioner claiming higher marks and to restrain the respondent from filling SC/BC quota
4.	18842	2018	
5.	11735	2020	
6.	6466	2019	Civil Writ Petitions in which petitioner has been appointed provisionally but not given joining
7.	17897	2020	
8.	15131	2019	Civil Writ Petitions in which petitioner claiming for appointment letter against vacant post.
9.	10685	2017	for quashing order dated 15.03.2013 of

			Punjab Govt. for non-issuance of belt no.
10.	25611	2017	Claiming benefit of higher qualification
11.	26642	2017	

14-A. In some of the petitions, even though formal notice of motion has not been issued but at the request of learned counsel for the petitioners, those were also tagged with the lead case. Since the same are being disposed of vide this common judgment, the notice of motion would be deemed to have been issued, served and accepted by the official respondents.

In category R-I, R-II and R-IV cases, the material questions for adjudication are the same or within the same ambit as in the lead cases. Considering the nature of controversy and various issues/points involved in the other cases entered in categories R-III, R-V, R-VI, R-VII, R-VIII, R-IX, R-X, R-XI, R-XII (cases wherein challenge has been made by the petitioners for violation of reservation policy of Scheduled Castes, Scheduled Tribes, Ex-servicemen, Wards of Police Personnel etc.), I am of the opinion, that for their examination in the proper perspective, it would be appropriate to detag, segregate and decide them separately. Accordingly, it is so ordered.

15. Having heard learned counsel for the parties and after perusal of the record, I shall now proceed to record my discussion and outcome thereof.

16. Learned counsels, *inter alia*, contended vehemently that:

- (a) Non-conducting of the interview-cum-personality test is in violation of the advertisement and has unfairly deprived the petitioners an opportunity to improve their over-all score and merit and thus caused serious prejudice to them. As per the advertisement, an interview-cum-personality test carrying maximum four marks was to be conducted and the marks obtained by the candidates in the interview-cum-personality test were to be added to the marks obtained for educational qualifications and height and their gross total marks were to be

the basis to determine their over-all score for preparing final merit list.

(b) There was politicization of recruitment in view of the Assembly elections due in 2017 which is unconstitutional.

(c) The formula based on slab system adopted for the award of marks on the metrics of educational qualifications and height is unreasonable and irrational, it equates the candidates having lesser marks with those having more marks and thus is disadvantageous to the latter.

(d) The 'tie-resolution' formula adopted for award of marks and determination of merit, in the event of two or more candidates securing equal marks, is wrong and unfair.

(e) Candidates who secured lesser marks than the petitioners in 10+2 examination and those shorter in height have been selected in violation of the basic rule that merit is the only criteria for selection.

17. Learned counsel for the respondents pointed out to the relevant text of the advertisement Annexure P-1, Standing Order Annexure P-2 and publication dated 30.09.2016 in Ajit (Punjabi Newspaper) Annexure R-4(English translation R-4/T) and argued that at the time of applying for the posts and participating in the process of selection, the petitioners were very well aware of the advertised/publicized formula of awarding marks on the metrics of educational qualifications and the award of marks for height. They were also made aware through newspaper publication dated 30.09.2016 that no interview would be held and that the selection of applicants will be made only on the basis of their total marks obtained i.e. marks obtained in height measurement and marks obtained in 10+2 examination and will be selected accordingly. Petitioners are, therefore, precluded from challenging the said formulae. It was submitted that the candidates had been awarded marks, merit had been determined and

selection was made strictly as per the formula advertised and made/deemed known to the candidates in advance.

18. Learned counsel for the respondents further argued that the interview-cum-personality test was dispensed with as a policy measure with the object of bringing more transparency, to eliminate chances of subjective assessment in awarding marks for interview-cum-personality test or any favour to or bias against the candidates at the hands of the concerned authorities and to ensure that the selection was made solely and strictly on merit. Further, as no interview was conducted across the board and for this purpose, all the candidates were treated alike, there was no possibility of any discrimination with any candidate by awarding marks arbitrarily or subjectively in the interview. Thus, non-conducting of interview-cum-personality test did not cause any prejudice to the petitioners. He pointed out to the text of sub para (vii) of para 20 captioned “General Instructions to the Candidates” of advertisement (Annexure P-1) requiring that the candidates were advised to go through the guidelines/instructions for filling up the application form on-line as well as the Standing Order (SO) of the office of Director General of Police vide # 1 of 2016 which is the governing document for the recruitment process (2016) of Constables in Punjab Police and that the Standing Order contains detailed criteria/eligibility conditions etc., which was/is available on the recruitment website (www.punjabpolice recruitment.in). It was contended that, in the eye of law, the said Standing Order was/is deemed part of the advertisement and there was nothing wrong in following the formula in the Standing Order for determination of merit in the event of two or more candidates securing equal marks.

19. Following material questions for adjudication are being formulated by this court :

- (i). Whether the petitioners' challenge to the non-conducting of interview is maintainable ?
- (ii). If answer to (i) above is in the affirmative, whether any material prejudice has been caused to the petitioners by non-conducting of the interview-cum-personality test?
- (iii). Whether candidates who secured lesser marks than the petitioners in 10+2 examination and those shorter in height have been selected ?
- (iv). Whether the petitioners challenge to the formula for award of marks on the metrics of educational qualifications is tenable?
- (v). Whether the petitioners challenge to the formula for determination of merit in the event of two or more candidates securing equal marks is tenable ?

20. Before proceeding further, it would be apposite to reproduce the relevant parts of the advertisement Annexure P-1, Standing Order Annexure P-2 and publication dated 30.09.2016 in Ajit (Punjabi Newspaper) Annexure R-4(English translation R-4/T).:

"ANNEXURE P/1 (ADVERTISEMENT).

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"9. MARKING SYSTEM

MARKS FOR HEIGHT:

The candidates shall be awarded marks as per the following criteria:

MALE:

FEMALE:

<i>Height</i>	<i>Marks</i>	<i>Height</i>	<i>Marks</i>
5'-7"	10	5'-3"	10
5'-8"	11	5'-4"	11
5'-9"	12	5'-5"	12
5'-10"	13	5'-6"	13
5'-11"	14	5'-7"	14
6' and above	15 (maximum)	5'-8" and above	15 (maximum)

MARKS FOR PERFORMANCE IN 10+2 BOARD EXAM

(Applicable to all male and female candidates except ex-servicemen).

Percentage of marks (10+2 Board exam)	Marks
Upto& including 40%	10
More than 40% and upto& including 50%	11
More than 50% and upto& including 60%	12
More than 60% and upto& including 70%	13
More than 70% and upto& including 80%	14
More than 80%	15(maximum)

Note: For the purpose of calculation of percentage of marks, the candidate should enter marks obtained by him/her in 10+2 Board examination (as per Detailed Marks Card/Sheet issued by the Board) as well as the total marks in the Application Form. It may be noted that the relevant rules and regulations of the Education Board concerned shall apply.

Xxxxxxxx

10. INTERVIEW-CUM-PERSONALITY TEST

From amongst the candidates who qualify the Physical Measurements and the Physical Screening Test, each Range/Zonal/Commissionerate Recruitment Board will draw up a Preliminary Merit List separately for the District Police Cadre and Armed Police Cadre, on the basis of the Marks obtained by the candidates in the **Height measurement** and the **Educational** qualifications (30 marks).

Central Recruitment Board will combine all the Preliminary Merit Lists submitted by the Range/Zonal/Commissionerate Recruitment Boards and draw up three separate Statewide Preliminary Merit lists, one each for:

- (1).District Police Cadre-Male,
- (2).District Police Cadre-Female, and
- (3).Armed Police Cadre-Male.

On the basis of merit position in the Statewide Preliminary Merit Lists so prepared, the Central Recruitment Board shall select candidates for Interview-cum-Personality Test. The number of candidates to be called for the interview, would be approximately three times the total number of vacancies in each category, separately for the District & Armed Police Cadre, and for the Female constables. The Interview-cum-Personality Test shall be of **04 marks**.

Xxxx

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20. GENERAL INSTRUCTIONS TO THE CANDIDATES:

Xxxxxx

xxxx

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(vii)Candidates are advised to go through the guidelines/instructions for filling up the Application form online as well as the Standing Order (SO) of the office of the Director General of Police vide # 1 of 2016, which is the governing document for the Recruitment process (2016) of Constables in Punjab Police. The **Standing Order** contains detailed criteria/eligibility conditions, etc., which is available on the recruitment website(www.punjab.policerecruitment.in).

ANNEXURE P-2 : (STANDING ORDER)

xxxxx xxxxx xxxxx

6. SELECTION LIST

Xxxx

xxxxxx

While preparing the Combined Final Merit List, in the event of two candidates securing equal marks, the following Tie-resolution criteria shall be adopted:

(a) In the event of the candidates having equal marks, the candidate senior in age shall be put higher in the Merit.

(b) In the event of the candidates having equal marks and having same date of birth, then their relative merit shall be prepared on the basis of Percentage of Marks obtained in the 10+2 examination and the candidate having higher Percentage of Marks in 10+2 examination, shall be placed higher in the Merit.

(c) In the event of the candidates having equal marks, same date of birth, same Percentage of Marks in the 10+2 examination, then their relative merit shall be prepared on the basis of marks obtained in the Height measurement.

(d) In the event of the candidates having equal marks, same date of birth and same Percentage of Marks in the 10+2 examination and equal marks in the Height Measurement, then their relative merit shall be prepared on basis of marks obtained in the Interview-cum-Personality Test.

(e) In the event of the candidates having equal marks, same date of birth, same percentage of marks in the 10+2 examination, equal marks in the height measurement and equal marks in the Interview-cum-Personality Test, then their relative merit shall be prepared in the descending order of the Roll numbers assigned to the candidates.

Xxxxxx xxxxx xxxxx”

ANNEXURE R-4(ENGLISH TRANSLATION R-4/T)

(PUBLICATION DATED 30.09.2016 IN AJIT – A PUNJABI NEWSPAPER):

“NO INTERVIEW OR PERSONALITY TEST WILL BE CONDUCTED FOR THE POSTS OF PUNJAB POLICE CONSTABLE.

Chandigarh 29th September: Punjab Police has specified that no Interview or Personality Test will be conducted for the recruitment of 7359 Constables in District Police Cadre and Armed Police Cadre. According to Chairman, Central Recruitment Board, the selection of applicants will be made only on the basis of their total marks obtained i.e. marks obtained in height measurement and marks obtained in 10+2 examination and will be selected accordingly. These instructions are issued by the Director General of Police, Punjab on 26th September. According to Government bodies, this clarification has been given to stop any favouritism.

Xxxxxxx xxxxxx”

21. Let us now take up the formulated questions for adjudication, in serialim.

(i).Whether the petitioners’ challenge to the non-conducting of interview is maintainable ?

(ii). If answer to (i) above is in the affirmative, whether any material prejudice has been caused to the petitioners by non-conducting of the interview-cum-personality test?

21.1. To my mind, it is best left to the wisdom of the competent authorities to decide the educational qualifications and other requirements, including a decision for or against holding of interview carrying weightage and formulae to determine merit for selection to the posts, consistent with the

nature and level of the job. In the absence of something patently wrong with

the decision of the competent authority, judicial intervention therein would be unwarranted. Here, the competent authority decided the educational qualifications and other requirements, the formulae to determine merit and took a conscious decision against the holding of interview-cum-personality test with weightage of marks for selection. Considering the level and nature of job of a police constable, I find no justification for holding of interview-cum-personality test and/or weightage of marks obtained therein to be kept as an essential requirement for selection.

21.2. At the time of applying for the posts and participating in the process of selection, the petitioners were very well aware of the advertised/publicized formula of awarding marks on the metrics of educational qualifications; marks for height and that no interview would be held and the selection of applicants will be made only on the basis of their total marks obtained i.e. marks obtained in height measurement and marks obtained in 10+2 examination and will be selected accordingly. The petitioners are, therefore, precluded from challenging the said formulae after unsuccessful participation therein.

21.3. In **CWP No. 24202/2017 Bhagat Singh v. State of Punjab and others** decided on 26.10.2017, the challenge was to the offending clause 6(a) of the same Standing Order No. 1/2016 (Annexure P-2 herein) which provides that in the event of the candidates having equal marks, the candidate senior in age shall be higher in rank. A co-ordinate bench of this Court (Tejinder Singh Dhindsa, J.) held as under:

“5. It is by now well settled that if a candidate participates in a process of selection wherein the eligibility criteria as also criteria for selection stands disclosed before hand, such candidate cannot, thereafter, upon having been unsuccessful, be permitted to turn around and to contend that the eligibility criteria was arbitrary and wrongly framed. A reference in this

regard may be made to the decisions of the Hon'ble Supreme Court of India in Madan Lal and others v. State of Jammu & Kashmir, AIR 1995 SC 1088 and G.N.Nayak v. Goa University 2002(1)S.C.T.1052."

21.4. I am in respectful agreement with the aforesaid view taken by my learned brother. It follows, therefore, that the petitioners, having participated in the process of selection wherein it had been disclosed beforehand that no interview-cum-personality test would be conducted, on having remained unsuccessful, are precluded from challenging the non-conducting of interview-cum-personality test.

21.5. Obviously, the interview-cum-personality test was dropped as a policy measure to bring more transparency and eliminate chances of subjective and erroneous assessment in awarding marks for the interview. That apart, the decision had also the obvious merit of eliminating any possibility of the selection being influenced for extraneous considerations through any unethical, unscrupulous and unfair means.

21.6. Also to be noted, that after the publication of advertisement Annexure P-1, Komal Kumar and 27 other petitioners had filed a CWP No. 12661/2016 (later dismissed as withdrawn on 19.9.2016) challenging the clause for conducting interview-cum-personality test and asserting that conducting of interview for class C and D posts was contrary to Central and Punjab State Governments' instructions. In these circumstances, ex-facie the holding of interview-cum-personality test carrying marks and giving weightage qua the same in determining merit was unlikely to stand legal scrutiny.

21.7. As no interview was conducted across board and on this aspect all the candidates were treated alike, there was no possibility of any discrimination

with any candidate by awarding marks arbitrarily and subjectively in the interview.

21.8. I am thus unable to accept the contention on behalf of the petitioners that if the interview-cum-personality test carrying marks had been held, they could have secured more marks than other candidates and come up higher in the merit than the other successful candidates. This contention is nothing more than the petitioners' own self-serving, unfounded and far-fetched speculation and is totally devoid of any merit.

21.9. In **K.Manjusree v. State of A.P.&Anr, CA No. 1313/2008 decided on 15.0.2008, and Madan Mohan Sharma and Anr v. State of Rajasthan and others 2008(3) SCC 724**, after the start of the process for recruitment, a new requirement of interview with weightage for selection was introduced. In the present case, the situation is reverse. Here, the requirement of interview with weightage for selection was dispensed with. There is no change of goal post after the match has begun, to the detriment of one side alone, which seems to be the argument. On the contrary, dispensing of interview across board for all candidates benefits them all. For, that is in the true spirit of better transparency and leaving lesser room for discretion and/or manipulation. In my opinion, the considerations for dispensing with the requirement of interview with weightage of marks for selection would be entirely different from the considerations for introducing a new requirement of interview with weightage of marks for selection. As observed above, the interview-cum-personality test was dropped as a policy measure to bring more transparency and eliminate chances of subjective and erroneous assessment in awarding marks for the interview.

That apart, the decision had also the obvious merit of eliminating any

possibility of the selection being influenced during interview for extraneous considerations through unethical, unscrupulous and unfair means. Not to say that in all selections, the holding of interview would not be necessary or serve any useful purpose. In fact, in some situations, the interview would furnish a valuable opportunity and may be found necessary to assess the suitability of the candidates for the relevant job. However, the introduction of new requirement for interview with weightage of marks for selection, whatever be its advantage, would also have the scope/chances of subjective and erroneous assessment in awarding marks for the interview, besides the potential and possibility of the selection being influenced for extraneous considerations through unethical, unscrupulous and unfair means likely to adversely affect a fair selection solely and strictly on merit. Thus, the reasons and considerations would be entirely different for dropping an existing requirement vis-à-vis introducing a new requirement of interview with weightage of marks for selection.

21.10. In **Maharashtra State Road Transport Corporation v. Rajendra Bhimrao Mandve & others 2002(1)CLR 339**, in the midst of selection for the posts of Drivers, the weightage for interview was raised from 12.5% to 25% of the maximum marks for selection. Yet, in the peculiar facts and circumstances of that case, for adjustment of equities, to give a quietus to the controversy, avoid re-opening of the selection process to be undertaken afresh, dislocating those who had already been serving for quite some substantial period, the Apex Court, without upsetting the selections made, only gave a direction to accommodate the small number of ten writ petitioners. No such parallel can be drawn in the different facts and circumstances of the present case. In **Madan Mohan Sharma's** case

(*ibid*), the advertisement had been issued for selection of Teacher Grade III

on the basis of circular whereunder the criteria for selection was the Secondary Examination. During the process for selection, the criteria was changed from the Secondary Examination to Senior Secondary Examination with a provision for discretionary relaxation of changed criteria. The Division Bench of the High Court had upheld the judgment of the learned Single Judge sustaining the challenge to the change of criteria in the midst of the process of selection. The Hon'ble Supreme Court dismissed the appeal of the appellants, who had been appointed by invoking the discretionary relaxation clause in the changed criteria. There is no such situation in the present case.

21.11. In **Kultar Singh v. State of Punjab CWP No. 15645/2011** decided on 30.01.2014, after the advertisement had been issued and written test on its basis was conducted, the learned co-ordinate bench of this Court held that the selection made on the basis of the revised criteria had to be set aside and the result was required to be re-worked out after reducing the extra marks awarded on account of qualifications of Middle and Matriculation examination from the schools of rural areas, which was provided for after the selection process had already been started. Again, there is no such situation or analogy in present case. In **Sanjay Kumar and others v. State of Jharkhand and others WP(S) No. 6709/2017** decided on 12.09.2018 by the learned single bench of Jharkhand High Court and **Jyotshnamayee Mishra v. ADM, Boudh and Ors WP(C) No. 12536** decided on 23.09.2015 by the learned single bench of Orissa High Court, facts and circumstances were not analogous or similar to those of the present case.

21.12. Thus, in my opinion, aforesaid judgments cited by the learned counsel for petitioners are distinguishable and do not apply to the instant case.

21.13. I also find no substance in the contention that there was unconstitutional politicization of recruitment in view of the then forthcoming Assembly elections in 2017. The argument, in fact, cuts at its own roots, goes against the petitioners, is misconceived, ill-advised, unpalatable and uncharitable to say the least. As observed above, the decision to drop the interview-cum-personality test carrying weightage of marks for selection brought more transparency and eliminated chances of subjective and erroneous assessment in awarding marks for the interview. Further, it had also the obvious merit of eliminating any possibility of the selection being influenced, at the hands of the authorities that be, during interview for extraneous considerations through unethical, unscrupulous and unfair means. The relevant parts of the recruitment process preceding the interview-cum-personality comprised of awarding marks to the candidates as per percentage of their marks in 10+2 examination and their height measurement. That was quite transparent and had been disclosed in advance. In any case, even after change of dispensation, the respondents have defended the recruitment steadfastly, instead of complying with the interim directions to carry out remeasurement across board of all selected and rejected candidates. Thus giving up an opportunity to carry out the exercise afresh under the new regime. In the premise the aforesaid argument of politicization in the selection is as insipid, as it can be, but yet the same has been noted only for the sake of its rejection.

22. In the light of the aforesaid observations and legal position, it is held that the petitioners have failed to substantiate their contention firstly that their challenge to the non-conducting of interview is maintainable and even otherwise they have failed to show that any material prejudice has been caused to them by the non-conducting of the interview-cum-personality test. Questions No. (i) and (ii) are answered accordingly.

23. Now taking up question no. (iii) for adjudication, which reads as under:-

(iii). Whether candidates who secured lesser marks than the petitioners in 10+2 examination and those shorter in height have been selected ?

The petitioners claim that merit has been given go-bye and less meritorious candidates have been selected by ignoring them; the candidates who secured lesser marks in 10+2 examination than the petitioners and those shorter in height have been selected. Relevant Table in the earlier part of the petition shows the marks obtained by the petitioners in 10+2 examination, details of their height and the total marks.

23.1. The contention though seemingly attractive on first flush is, however, fallacious and just an illusion created by jugglery of words and drafting/pleadings, if one may say that.

23.2. It is not even alleged by the petitioners that they have been awarded less than the due marks on the metrics of educational qualifications and/or the height measurement. In fact, the same are correct for each of the two metrics as per the prescribed and duly advertised formula and their combined totals are also correct.

23.3 No particulars at all have been disclosed to show that any other candidate having less than the petitioners' combined total marks for educational qualifications and height measurement has been selected.

23.4. It is to be kept in mind that as per the advertised and applicable formula, the inter se merit of the candidates was to be determined on the basis of combined total of their marks for educational qualifications and for the height measurement and not the marks of the lone metric of either of the two. So long as the combined total marks for educational qualifications and height measurement of the selected candidates are more than those of the petitioners, they cannot question the selection of the former or their own non-selection. This can be hypothetically demonstrated inter se the petitioners themselves that their combined total of marks could increase or decrease even if any of them had got more marks for educational qualifications but lesser marks for height measurement and vice-versa. Take for instance the case of petitioner No. 1 vis-à-vis petitioner No.2. Imagine if the former had 62.33% score in educational qualifications, he would get 13 marks for the same and the combined total of his marks for the two metrics would come down from 28 to 27. Similarly, if petitioner No. 2 had 75.33% score in educational qualifications, he would get 14 marks for the same and his combined total of marks for the two metrics would go up from 28 to 29. In such hypothetical situation, their inter se overall score and merit would change. For petitioner No. 1 it would come down from 28 to 27, while for petitioner No. 2 it would go up from 28 to 29, even though one of them actually got higher marks than the other on one of the two metrics -either for educational qualifications or for height measurement. In such situation,

even if for one out of the two metrics of educational qualifications and

height measurement, any of the petitioners got more marks than the selected candidates, that would be irrelevant.

23.5. In the light of above discussion, it is held that petitioners have failed even to allege, let alone show that candidates who secured lesser combined marks than the petitioners' combined marks for percentage of score in 10+2 examination and in height measurement have been selected. Question No. (iii) is answered accordingly.

24. Now the question nos. (iv) and (v) which are as under:-

(iv). Whether the petitioners challenge to the formula for award of marks on the metrics of educational qualifications is tenable?

(v). Whether the petitioners challenge to the formula for determination of merit in the event of two or more candidates securing equal marks is tenable ?

The formulae for award of marks on the metrics of educational qualifications, height measurement and also the formula for determination of merit in the event of two or more candidates securing equal marks had been advertised/ disclosed before hand. Considering the level and nature of job of a police constable, I find no justification for holding and proceeding on the premise that the said formulae were patently wrong, unfair or unjust. Knowing these formulae in advance, the petitioners applied for/and participated in the process of selection. Same formulae were actually applied/ followed for the selection. The petitioners having remained unsuccessful in selection, filed the writ petition challenging that the criteria/formula for selection on the ground that the formulae for award of marks on the metrics of educational qualifications, height measurement and determination of merit in the event of two or more candidates securing equal marks were unfair, unreasonable and irrational. At the cost of

repetition, it may be stated here that I have already expressed my respectful

agreement with the view taken by the learned co-ordinate bench in **Bhagat Singh's case (*ibid*)**, wherein it was held, relying upon **Madan Lal and others v. State of Jammu & Kashmir AIR 1995 SC 1088** and **G.N.Nayak v. Goa University 2002(1)S.C.T.1052**, that if a candidate participates in a process of selection wherein the eligibility criteria as also criteria for selection stands disclosed before hand, such candidate cannot, thereafter, upon having been unsuccessful, be permitted to turn around and to contend that the eligibility criteria was arbitrary and wrongly framed.

24.1. The petitioners are, therefore, precluded from challenging the formula for award of marks on the metrics of educational qualifications and also the formula for determination of merit in the event of two or more candidates securing equal marks. Questions No. (iv) to (vii) are answered accordingly against the petitioners.

25. Regarding clause 9 of the Standing Order Annexure P/2, which provides that respondent No. 2 (Director General of Police) shall be the Appellate Authority for any kind of redressal of grievance related to the recruitment process and any candidate having a grievance should make a representation within 30 days of the declaration of result. Contention of petitioners is that the result was declared in the end of October, 2016 and in the first week of November, respondent No. 2 had acted illegally by starting the process of issuing appointment letters to the selected candidates. In my opinion, the provision *ibid* does not mean that the same was an impediment against or barred the issuance appointment letters to the successful candidates, until the expiry of time limit for such appeal. The contention is, therefore, rejected.

26. As an upshot of above discussion, I am of the opinion that these petitions are devoid of any merit, as far as challenge to the criteria of selection is concerned, and to that extent deserve dismissal. It is ordered accordingly. The respondents shall remain bound by their own undertakings as given to the court in course of hearing/s and/or in their affidavits.

27. Taking a departure from the all other arguments, as noticed hereinabove, Mr. Gagan Oberoi, learned counsel for the petitioners in CWP No. 26981 of 2016 – Jatinder Singh vs Director General of Police, Punjab, argued that making height of a person as a criteria for selection is both arbitrary and discriminatory and is hit by Article 14 of the Constitution of India which guarantees that there should not be any discrimination on the basis of caste, sex, religion, colour and creed. The expression of colour and creed includes the height of the person too because it is based on biological genes and is not in the hands of the person. He submitted that height of a person is a God gift and depends on the genes of the person like body, colour and other features of the body and even it is presumed that the height of all candidates was rightly measured even then the entire selection process is arbitrary, discriminatory and against the principles of natural justice. Height of individual can though be one of the conditions along with the other merits of the individual, but the selection process cannot be solely based upon the height. He argued that many Gallantry awards have been awarded to the police as well as army personnels having average height, therefore, it cannot be said that only persons with good height can be brave and meritorious. Citing example of Gurkha (Nepalis) Battalion, who ordinarily have an average height (invariably minimum height prescribed for them is 5' feet 2.5"- 3" inches), learned counsel convassed that even Field

man says he is not afraid of dying, he is either lying or he is a Gurkha.”Such is their bravery, that even today United Kingdom recruits Gurkhas from Nepal and still have a regiment of “Gurkhas” in their military force. Hence, the selection process adopted by the Respondent was discriminatory for a particular class of people i.e. for those who have average height, out of which some of them were deservingly meritorious, competent and way more brave than some of those who have been selected by an arbitrary process. Learned counsel contended that the minimum height as per the advertisement is 5’7” (5 feet 7 inches), which is thus violative of the rights of a person who is of lesser height than the minimum prescribed herein.

28. While all the above may seem impressive qua *Gurkhas* but it is irrelevant for the purpose of selection under challenge. In fact, the reverse of the same would be rather more just and fair. Inasmuch as, the Gurkhas are known to have average height because of their genes, habitant and biological reasons. Therefore, they have been given special concession/advantage in the defence/police services while selecting them by giving certain relaxations of height, if at all.

29. In the parting, qua the controversy of wrong measurement of height and/or non videography thereof, it transpires that during the pendency of the writ petition, height of some of the candidates was re-measured while others, who had grievance qua their height, were not accorded similar benefit in view of the stay granted by the Division Bench of this Court on the operation of the order passed by the learned Single Judge. Keeping in view the candid stand taken by the State in its Review Application, it would be in the interest of justice that those petitioners who were aggrieved against the wrong measurement of their height are given one chance for re-measurement

of their height in terms of the undertaking/ stand taken by the learned State

counsel as reflected in order dated **04.12.2017** read with the undertaking given in the review application to re measure height of all the aggrieved candidates/petitioners. However, it though borders hilarity to read the careless and nonchalant justification given in the review application of the respondents while deposing as below:

“Height of 76 candidates was re-measured and height of 31 candidates was found in variance. This is a miniscule figure and may be seen out of list of 1,81,380 number of candidates.”

31 out 76 by no stretch of imagination is miniscule ! Moreover, height of a candidate, when it is a determining factor of his selection, has to be measured with an absolute precision, not in such lackadaisical manner so as result in 40% erroneous result (31 out of 76). Error rate of 40%, when applied on entire list of 1,81,380 candidates has the peril of amplifying into colossal distortion in the result.

30. Height measurement Guidelines referred to by the State Government in its Review Application No. 155 of 2018, as enunciated by my learned brother Rajiv Narain Raina, J. (as he then was) in Sonu Singh¹'s case¹, are relevant in the context of settling the controversy qua the wrong measurement of the height. The relevant part thereof is reproduced hereunder:-

“The dispute hinges on the height of the petitioner who is an applicant for the post of Constable in the police department. The petitioner's height has been measured at 171.9 cm which makes him ineligible. The rule prescribes minimum height of 172 cm. The petitioner insists that he is 5'-8” in height and is eligible but his case has not been considered being short of requisite standard. He made a representation to the respondents for remeasuring his height. A man's height is a pure question of fact provided it has been measured scientifically by a stadiometer, which is a piece of medical equipment used for measuring human height with reliable

results.

If a reliable mechanical or digital stadiometer was not used by the authorities deputed by the Haryana Staff Selection Commission to measure height, then a direction deserves to be issued to the respondents to consider and decide the representation submitted by the petitioner for recording his correct height.

In case, recruitments of police constables are conducted without scientific stadiometer as part of medical equipment then directions are issued to the Haryana Staff Selection Commission, Panchkula and to other recruiting agencies of the State where height is part of the eligibility criteria for appointment to public service then they should take steps to equip themselves with both mechanical and digital stadiometers properly calibrated from standard suppliers to measure the correct height of candidates exact to the millimeter so that no such dispute comes to this Court in the future. When height is certified by a stadiometer in the presence of candidate with frozen digital reading the presumption of correctness will be attached to the measurement. Likewise, the Commission should use the Respiratory Movement Measuring Instrument (RMMI) and reliable measuring tape to record chest expansion of the candidates for a doubt free physical check up. These instruments are available in the market and can be hired. More importantly, candidates should be notified in advance on the Commission's website that height and chest will be measured publicly by such scientific instruments and recordings handed over on small slips bearing the stamp of the Commission for the candidates to preserve and track so that they cannot dispute the measurements and no complaint will be entertained thereafter."

A perusal of the above would reveal that had the State Government followed the methodology, as suggested by this Court, unnecessary litigation qua the height measurement could have been avoided.

31. A writ of mandamus is appropriately required to be issued to the Punjab State Government that henceforth it shall ensure that the above guidelines, contained in **Sonu Singh's** case, *ibid* are made mandatory in every recruitment to be carried out in Punjab Police and other departments where height is one of the criteria for selection.

32. Accordingly all those candidates who are before this Court and have any grievance qua their height, shall approach the competent authority along with their application within 30 days of this order being uploaded on the

court website, to seek re-measurement of their height. In case, on re-measurement, there is any discrepancy in the same, the advantage of the correct measurement be given to the candidate and the merit list shall be redetermined by giving/ changing marks as per their height, in accordance with law. In case, a candidate has become overaged during pendency of CWP, then one time relaxation in age shall be given.

33. In case of change of merit position owing to re-measurement of height, the same shall be corrected. Candidates who have allegedly been given inappropriate advantage of their height shall have to make way in case their merit gets lower as a result thereof. It is re-iterated that those, who have already been selected, their selection was made subject to the final outcome of the writ petition as per order dated 06.12.2016.

34. It is, however, made clear that this one time liberty/ indulgence of re-measurement of height across board is being granted in view of the concession/ stand taken by the State in its Review Application, that in order to mitigate the grievance a onetime exercise can be carried out qua those, who are aggrieved against measurement of their height.

35. The aforesaid indulgence is merely to balance the equities and to give a quietus to the height controversy without re-opening the selection process. It shall not, in any manner, be construed to mean that the selected candidates have been given any kind of advantage of wrong measurement of height, as has been alleged by the petitioners.

36. In case any candidate upon re-measurement comes above the selected candidate in his respective category, viz. General or otherwise, in that event the candidate /petitioner from the bottom of list in the said category shall have to make way for the former, in the event there is no vacancy available.

Needless to say, that if vacancy still exists, then the newly selected candidate

shall have to be accommodated in accordance with his merit.

37. Judgment was reserved in the above bunch of 209 cases wherein the criteria of selection adopted by the recruitment agency to the posts of Constables in the Punjab Police was challenged. Apart therefrom, discrepancy in measurement of height and non-videography thereof was/is also assailed in some of the writ petitions.

38. Out of the bunch of 209 cases, 159 cases are being disposed of in the manner mentioned hereinabove, however, in the rest of bunch of cases, the petitioners have also, *inter alia*, challenged violation of reservation policy of Scheduled Castes, Scheduled Tribes, Ex-servicemen, Wards of Police Personnel etc. Accordingly, these 50 cases i.e. CWP-2208-2017, CWP-2247-2017, CWP-25037-2016, CWP-10904-2017, CWP-11005-2017, CWP-33325-2019, CWP-3794-2019, CWP-6799-2019, CWP-8767-2019, CWP-20844-2020, CWP-24269-2016, CWP-3652-2017, CWP-2384-2017, CWP-24345-2016, CWP-4395-2017, CWP-497-2017, CWP-5853-2017, CWP-625-2017, CWP-12039-2018, CWP-12833-2018, CWP-28446-2017, CWP-29697-2017, CWP-6820-2018, CWP-6873-2019, CWP-24748-2016, CWP-13232-2018, CWP-18529-2018, CWP-18839-2018, CWP-2518-2017, CWP-811-2017, CWP-15697-2017, CWP-25303-2016, CWP-25690-2016, CWP-720-2017, CWP-12381-2017, CWP-18497-2017, CWP-3575-2017, CWP-10685-2017, CWP-11735-2020, CWP-15131-2019, CWP-17897-2020, CWP-18827-2018, CWP-18842-2018, CWP-2378-2021, CWP-25611-2017, CWP-26642-2017, CWP-30002-2019, CWP-6466-2019, CWP-23871-2019, CWP-26725-2016, are de-tagged for re-hearing vide a separate order.

39. To sum up in the end, hereinbelow are the succinct conclusions drawn and directions of the Court in the instant judgment:-

The criteria of selection as per the original advertisement read with

the standing order, is upheld and the petitioners' challenge thereto is rejected. Dispensing with the interviews for the post of Constable being Group-C which is in tune with the guidelines issued by the Government of India and the policy decision of the State Government dispensing with the interview is also upheld.

- ii). The grievance of the petitioners qua measurement of height would be mitigated by the State by carrying out one time re-measurement of their height in terms of judgment rendered by this Court in **Sonu Singh's** case, *ibid*. It is so ordered accordingly.
- iii) All the petitioners be notified of the date, time and venue for remeasurement of height through email/ text message as well on the website of the department. Those who opt for remeasurement, the exercise for their remeasurement of height and the resultant changes concerning the concerned petitioners in selection shall be completed within the next one month.
- iv) If any of the concerned aggrieved petitioners is/are selected, he/they be issued letters of appointment within the next two months. Candidates who have already undergone remeasurement test during pendency of proceedings would be given benefit thereof, if any, in accordance with remeasured height.
- v). If upon re-measurement of height, any petitioner comes above the previously selected candidate in the respective category viz. General or otherwise, in that event the already selected candidate on the bottom of list in the said category shall have to make way for him, in case there is no vacancy available. Needless to say that in case vacancies still exists, then the newly selected candidate shall be accommodated in accordance with his merit.

- vi) A writ of mandamus is issued to the State of Punjab that henceforth it shall ensure that the guidelines, contained in *Sonu Singh's* case, *ibid* are made mandatory in every recruitment to be carried out in Punjab Police and other departments where height is one of the criteria for selection.
- vii) All other cases wherein additional issues, other than the challenge to criteria as per advertisement read with standing order and measurement of height, are being de-tagged vide a separate order to be reheard on their individual merits, only to the extent the issues raised therein have not been dealt with in this judgment.

40. Disposed of, accordingly. Pending applications, if any, also stand disposed of.

JULY 5, 2021

Shalini/gurpreet/vs

(ARUN MONGA)

JUDGE

- | | |
|---------------------------------------|---------------|
| 1. Whether speaking/reasoned : | Yes/No |
| 2. Whether reportable : | Yes/No |