

In the High Court of Punjab and Haryana, at Chandigarh

216+119

Civil Writ Petition No. 1058 of 2022

Date of Decision: 23.02.2022

Rashpal Singh

... Petitioner(s)

Versus

State of Punjab and Another

... Respondent(s)

Civil Writ Petition No. 534 of 2022

Harjit Singh

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rahul Vijay Singh Chugh, Advocate
for the petitioner(s) (in CWP-1058-2022)

Mr. Sandeep Kumar, Advocate
for the petitioner(s) (in CWP-534-2022)

Mr. Vikas Mohan Gupta, Additional Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.(ORAL)

1. This order shall dispose of Civil Writ Petition No.1058 of 2022 and Civil Writ Petition No.534 of 2022. The petitioner prays for issuance of a writ in the nature of mandamus to direct the official respondents to re-measure the petitioner's physical height and, thereafter, allow him to participate in the interview and offer him a letter of appointment. The petitioner applied for the post of Male Constable in the District Police Cadre & Armed Police Cadre, pursuant to the recruitment notice dated 31.05.2016. The present writ petition has been filed on 17.01.2022.

2. The learned counsel representing the petitioner contends that the various writ petitions were filed in the High Court and vide an interim order

dated 25.04.2018, the Court passed an order. The operative part of the order is extracted as under:-

“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)”.

3. The learned counsel representing the petitioner further contends that the State of Punjab filed a review application, wherein it was stated that 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. The learned counsel submits that in the Letters Patent Appeal, the aforesaid interim order, passed by the learned Single Bench, was

kept in abeyance while directing the learned Single Bench to decide the writ petition. He submits that on 05.07.221, the writ petition has been decided with the following observations:-

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

i). 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".

4. The learned counsel further contends that since the matter was pending in the Court, therefore, there is no delay on the part of the petitioner.

5. Per contra, the learned counsel representing the State of Punjab has contended that pursuant to the order dated 25.04.2018, 194 candidates came forward to get themselves re-measured and on re-measurement, certain candidates were also issued the appointment letters.

6. However, he contends that the petitioner never objected to the final list, which was issued in the year 2017 and he did not come forward for re-measurement. The learned counsel representing the petitioner submits that the petitioner was never informed of all these developments.

7. Heard learned counsel representing the parties and with their able assistance, perused the paper-book.

8. As per the recruitment notice, a candidate, who has a complaint with regard to the correctness of measurement of the height or any other physical standard, has a right to file an appeal. Admittedly, the petitioner

did not file any appeal. The petitioner has, for the first time, filed the writ petition in the year 2022. Obviously, he was sitting on the fence. A co-ordinate Bench, while disposing of a bunch of the writ petitions, has not issued any direction to carry out the re-measurement the height of all the candidates. The relief has been restricted only with respect to the petitioners therein.

9. Now, the question is as to whether the High Court should interfere, particularly when the petitioner has failed to explain the delay of more than five years. In this case, the petitioner prays for recruitment. In the year 2017, he knew that he has not been selected. Thereafter, the petitioner did not take any step. In these circumstances, in the considered opinion of the Court, the petitioner does not deserve indulgence of the writ Court.

10. With the observations made above, the writ petition is disposed of.

**(Anil Kshetarpal)
Judge**

February 23, 2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No