

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.12863 of 2022(O&M)

Date of Decision.08.07.2022

Satnam Chand and others

...Petitioners

Vs

State of Haryana and another

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sunil Kumar Nehra Sirsa, Advocate
for the petitioners.

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JAISHREE THAKUR J. (ORAL)

The petitioners herein are seeking a direction to be issued to the respondent-State for re-selecting the petitioners as Constables in the State of Haryana with a further direction for absorbing petitioners by relaxing the rules, as has been done in the case of 1600 Constables, who were dismissed from service and subsequently appointed as Jail Warders.

In brief, the facts are that an advertisement was issued in the year 2004 for appointment of 819 Constables. Their recruitment process was started on 04.10.2004 and culminated with interviews held of all candidates between 20.11.2004 to 19.12.2004. The result of the selection process was declared on 19.12.2004, however, due to elections declared in Haryana, Model Code of Conduct was imposed by the Election Commission of India on 17.12.2004 and only 61 candidates were offered appointment despite imposition of Model Code of Conduct. Rest of the successful candidates could not join. The new government ordered an enquiry into the selection process and a report was submitted by the Additional Director General of Police holding that the selection process was dubious. Consequently, the entire selection was declared vitiated and services of all 61 candidates, who

had joined, were dispensed with. Therefore, the aforesaid 61 candidates and the candidates those were selected but could not join, had filed CWP No.1924 of 2007 titled as *Sandeep and others vs. State of Haryana and another*, which came to be dismissed on 16.08.2013 with the following observations:-

“...it is safer that these posts should be re-advertised where the petitioners should have a chance for re-selection. In case, some are age barred by law, that would remain in the discretion of the State Government to accord relaxation in age if public interest and equity demands. This would hold good only if no selection of constables in Police Control Room Staff was made, in the meanwhile, where the petitioners could have offered their candidature..”

Learned counsel appearing for the petitioners would contend that pursuant to order dated 16.08.2013, the said selected candidates did not get a chance for re-selection. It is contended that when the Hon'ble Supreme Court by an order dated 17.01.2002 had set aside the selection of 1600 Constables, the government made special provisions for adjusting said dismissed Constables by amending the qualification for the post of Warder in Haryana Jail Department. On this count, when the State Government can make special provisions for adjusting aforesaid 1600 Constables, the petitioners herein deserve same treatment. It is argued that the petitioners have now become over-age and should have been given a chance for re-selection as had been observed by this Court in order dated 16.08.2013. It is further argued that petitioners were engaged as SPOs on contract basis and therefore, they would be entitled to the same treatment at the hands of respondent-State, which had adjusted 1600 dismissed Constables as Jail Warders in the Haryana Jail

Department.

I have heard learned counsel for the petitioners and find that there is no ground to entertain the instant petition. The primary contention of the petitioners herein is that vide order dated 16.08.2003, there had been an observation that the posts should be re-advertised, which was not done. The said observation while dismissing the writ petition of selected candidates in a selection process, which had been found vitiated, cannot be held to have a binding effect. Even otherwise, while dismissing the said writ petition, discretion had been left to the State Government to relax the age in case some candidates are found to be over-aged. It was also observed that petitioners could apply in subsequent advertisements. Merely because the government took a decision to adjust 1600 dismissed Constables as Jail Warders, as has been alleged by petitioners, in Haryana Jail Department, would not be a sufficient ground for this Court to issue a writ in the nature of mandamus directing re-selection or re-advertisement to fill up the posts. Consequently, the instant petition stands dismissed. However, as the petitioners have already approached the Additional Chief Secretary, Department of Home and Administration of Justice and Director General of Police, Haryana regarding their claim for being absorbed as regular Constables, keeping in mind that they are working as Special Police Officers by virtue of legal notice (Annexure P-9), let the same be decided by the respondents expeditiously.

(JAISHREE THAKUR)
JUDGE

July 08, 2022

Pankaj*

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No