

113.

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

CWP-14308-2022

Date of Decision: 08.07.2022

HARMANDEEP SINGH

.... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. D.V. Sharma, Senior Advocate, with
Mr. Tushar Sharma, Advocate, for the petitioner.

JAISHREE THAKUR.J

1. The petitioner has approached this Court invoking Article 226 of the Constitution of India seeking a writ in the nature of Mandamus to be issued to the respondents to re-measure the height of the petitioner with a stadiometer and to recruit him as a Constable keeping in view the instructions dated 19.03.2020 (Annexure P-8) being younger in age.

2. In brief, the facts are that the petitioner applied for the post of Constable in the District Police Cadre as well as Armed Police Cadre under the General category pursuant to the advertisement issued on 31.05.2016. The petitioner was issued an admit card and he cleared all the physical tests i.e. race, long jump and the high jump. The grievance of the petitioner is that he is 6 feet in height, however, he was measured as 5' 11" and accordingly, awarded 14 marks. Cut off marks for appointment in General category were 28 marks, however, he scored overall 27 marks only.

3. Learned senior counsel appearing on behalf of the petitioner would argue that if the height of the petitioner is re-measured, he would come into the zone of selected candidates. He would submit that as per the instructions dated 19.03.2010 (Annexure P-8) if two or more candidates get equal marks, preference shall be given to the younger candidate. The petitioner is younger to many candidates who have scored 28 marks. It is stated that several persons, who were not satisfied with their height measurement, approached this Court in writ petitions, one of them being CWP No.22985 of 2016 where the High Court had ordered height to be re-measured. On reading public notice issued regarding re-measurement of height of those writ petitioners, the petitioner would also be entitled to have his height re-measured which has not been done despite service of legal notice upon the respondents on 18.04.2022. Thus, the instant writ petition has been filed seeking the height to be re-measured.

4. The main argument of learned senior Advocate appearing on behalf of the petitioner is that since this Court itself has directed the height of the candidates to be remeasured in terms of the judgment rendered in ***Sonu Singh Versus State of Haryana***, CWP No.23875 of 2016, decided on 21.11.2016, the petitioner would be entitled to the same benefit as well, since the direction was given in regard to the same advertisement.

5. However, this Court is not inclined to allow the re-measurement of the height of the petitioner considering the fact that the petitioner was not a party to the proceeding before this Court in CWP No.22985 of 2016. The petitioners therein were vigilant in approaching the High Court in 2016 itself raising a grievance that their height had not been measured correctly,

whereas the petitioner sat back for a period of six years and accepted the height as measured. Legal notice dated 18.04.2022 (Annexure P-11) was served upon the respondents only after the directions issued by the High Court, most probably to create a ground to file the writ petition after a long slumber of six years.

6. Moreover, a perusal of the Public Notice issued on 13.12.2021 would reflect that the exercise of re-measurement has already been done and the provisional merit list prepared as would be evident from Annexure P-10. At this stage, this Court will not permit the list to be recast on account of a candidate who was not vigilant enough to agitate that he was dissatisfied with his height measurement, and now seeks to piggy back on the relief given to the others who have been agitating for the claim from the very first instance.

7. Writ petition, being devoid of merit, stands dismissed.

(JAISHREE THAKUR)
JUDGE

08.07.2022
sanjeev

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No