

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

CWP No.12502 of 2017(O&M)

Reserved on:24.03.2022

Date of Decision.02.04.2022.

Naveen Kumar

...Petitioner

Vs

State of Haryana and others.

...Respondents

2. **CWP No.9996 of 2019**

Satyender Kumar

...Petitioner

Vs

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Karan Singh, Advocate
for the petitioner in CWP No.12502 of 2017.

Mr. Sunil K. Nehra, Advocate
for the petitioner in CWP No.9996 of 2019.

Ms. Palika Monga, DAG, Haryana.

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JAISHREE THAKUR J.

1. This order of mine shall dispose of the afore-captioned writ petitions (CWP Nos.12502 of 2017 & 9996 of 2019) as the issue for consideration is common in both the writ petitions. However, the facts are being enumerated from CWP No.12502 of 2017.

2. The petitioner herein is challenging the result dated 22.05.2017 wherein he has been denied appointment to the post of Male Constable (General Duty) on the ground that he has not qualified the Physical Measurement Test (in short PMT).

3. In brief, the facts are that the petitioner had applied for the post of Male Constable (General Duty), pursuant to advertisement No.8 of 2015 published on 19.07.2015. 5000 posts of Male Constable (General Duty) were advertised for which the educational qualification prescribed was (i) 10+2; (ii) knowledge of

Hindi/Sanskrit upto Matric standard and physical standard for the General Category

i.e. 172 cm height with chest measurement of 83 cm (unexpanded) to 87 cm (expanded). The petitioner successfully cleared the written examination and physical screening test. He had a height of more than 186 cm for which he got 14 marks, however, did not find his name in the final result declared on 22.05.2017.

4. Learned counsel appearing for the petitioner in CWP No.12502 of 2017 submitted that having cleared the written test, physical screening test and PMT, the petitioner herein would be entitled to be called for interview and offered letter of appointment. It is submitted that even as per his PMT report, his normal chest size (unexpanded) was 87 centimetre and the expanded chest size was 90.5 centimetre, which would well beyond the measurement as prescribed. It is further submitted that candidature of the petitioner was rejected only on account of the fact that his chest did not expand 4 centimetre, which is not prescribed anywhere in the advertisement. It is argued that the respondent-Commission cannot go beyond its own advertisement. It is also argued that the petitioner has qualified the PMT of the Chandigarh Police, which was held six months prior to the PMT done by the respondents. It is further argued that as per Rule 12.15 of the Punjab Police Rules, 1934 as applicable to Haryana, for recruitment in the State of Haryana, no criteria of minimum chest expansion is provided.

5. In CWP No.9996 of 2019, the petitioner had a height of 178 centimetre and had chest measurement of 90.3 (unexpanded) and 94.0 (expanded), meaning thereby, he could not qualify the criteria of 4 centimetre chest expansion. Learned counsel appearing for the petitioner in CWP No.9996 of 2019 would argue that nowhere in Rule 12.15 of the Punjab Police Rules as applicable to Haryana, it has been mentioned that difference in chest expansion should be of 4 centimetres and therefore, the word 'to' used in aforesaid Rules prescribing chest measurement '*83 centimetre (unexpanded) to 87 centimetre (expanded)*' for General Category must be understood in the same way in which it is usually understood, in ordinary parlance.

It is settled law that under the garb of interpreting the provision, the court does not have the power to add or subtract even a single word, as it would not amount to interpretation but legislation. In support of his argument, he relied upon the judgment rendered by the Hon'ble Supreme Court in **Rohitash Kumar and others Vs. Om Prakash Sharma and others (2013) 11 SCC 451.** It is vehemently argued that since there is no minimum requirement stipulated under Rules as well as the advertisement for chest expansion of 4 centimetre, petitioner herein ought not to be disqualified and have been called for interview/offered appointment.

6. Per contra, learned counsel appearing on behalf of the respondents would argue that the petitioner in CWP No.12502 of 2017 did not clear PMT as his chest unexpanded was 87 centimetre and expanded chest was 90.5 centimetre, meaning thereby, the expansion was only 3.5 centimetre whereas the requirement was to be 4 centimetre as provided in Rule 12.15 of the Punjab Police Rules, 1934. Similarly, the petitioner in CWP No.9996 of 2019 had 90.3 centimetres unexpanded chest and 94.0 centimetres with expansion and thus, the expansion was only 3.7 centimetres instead of 4 centimetres as prescribed under the Rules.

7. I have heard learned counsel for the parties and have perused the paper book.

8. The short question that needs to be addressed is whether there should be a difference of minimum 4 centimetres between expiration and inspiration, as has been intended to be provided under Rule 12.15 of the Punjab Police Rules, 1934 as applicable to the State of Haryana or there is no minimum requirement of minimum 4 centimetres expansion as has been argued by the counsel for the petitioner(s)? Before advertng to the question posed above, it would be apt to reproduce 12.15 of the Punjab Police Rules as applicable to the State of Haryana:-

“12.15. Age, Physical Standards and Academic Qualifications. (1) No person shall be appointed to the post of constable by direct recruitment

who is less than 18 years or more than 25 years of age on the first of the month in which the applications are invited for recruitment of Constables.

Provided that for the candidates belonging to the Scheduled Castes, Scheduled Tribes and Backward Class categories relaxation of upper age limit of five years shall be given.

(2) The minimum prescribed physical standard for candidate for recruitment as constable shall be as follows:-

<i>Candidate</i>	<i>Height</i>	<i>Chest</i>
<i>Male</i>	<i>172 centimeter General category</i>	<i>82 centimeter (un-expanded) to 87 centimeter (expanded)</i>
	<i>169 centimeter for eligible reserve categories as per latest existing Govt. Reservation Policy</i>	<i>81 centimeter (un-expanded) to 85 centimeter (expanded)</i>
<i>Female</i>	<i>160 centimeter General category</i>	<i>Nil</i>
	<i>157 centimeter for eligible reserve categories as per latest existing Government Reservation Policy</i>	

The suitable relaxation in minimum physical standards may be granted by the Director General of Police for recruitment of outstanding sports persons after recording reasons in writing.

(3) The minimum educational qualifications for a candidate to be eligible for selection as a Constable shall be 10+2 for all categories.

(4) The Director General of Police may, in special circumstances to be recorded in writing and with the prior approval of the Government, relax sub-rules (1), (2) and (3) above, with respect any class or category of persons.

(5) No person shall be eligible for direct recruitment if, he is colour blind or flat foot or has knocking knees.”

The measurements as prescribed in the Rules are the same as were mentioned in the advertisement. So, it cannot be said that there is any variation in the advertisement regarding the measurement.

9. The advertisement provides for the chest measurement to be 83 Centimetres (unexpanded) to 87 Centimetres (expanded) for the General Category and 81Centimetres (unexpanded) to 85 Centimetres (expanded) for the Reserve category candidates. Unfortunately, Rule 12.15(2) of the Punjab Police Rules 1934 for Haryana is not happily worded, which does not specify that there shall be a minimum of 4 centimetres difference between the unexpanded and expanded chest measurement. It will have to be seen as to how the word ‘to’ has to be interpreted.

10. In English grammar the word ‘to’ is a preposition. The preposition ‘to’ can be used to indicate a destination or direction, it can be used with verbs such as *give, hand, send, write*, to indicate the person or thing that receives or experiences the object of the verb, it can be used in telling time when we refer to the number of minutes before the hour. The words in the advertisement ‘83 Centimetre (unexpanded) to 87 Centimetre (expanded) for the General Category’ and ‘81 Centimetre (unexpanded) to 85 Centimetre (expanded) for the Reserve category candidates’ must be read as indicative that the minimum chest measurement unexpanded is 81/83 centimetres and has to expand upto 85/87 centimetres. A difference of 4 centimetres has to be there. The petitioners do not have chest measurements with a difference of 4 centimetres between the unexpanded and expanded chest, therefore they would not pass the PMT. Let us try to make an endeavour to understand the same in view of the rules/criteria adopted by various States across the country while making recruitment of Constables in their Force. A chart depicting the criteria adopted in various States with regard to chest measurement while making recruitments for the post of constable/Sub Inspector is tabulated as under:-

State	Post	Chest measurement in CM	Rules	Source
West Bengal	Constable	78 CMs (without expansion) 83 CMs (with expansion) – 5 CMs	West Bengal Police (Recruitment of Constables and Lady Constables) Rules,	wbpolice.gov.in

			2017	
Delhi	Constable	81 CMs to 85 CMs	The Delhi Police (Appointment & Recruitment) Rules, 1980	bareactslive.com
Tamil Nadu	Police Constable	Without expansion-81 CMs With expansion of 5 CMs (81-86)	Information Handbook on Tamil Nadu Uniformed Services Recruitment Board, Chennai	cms.tin.gov.in
Uttarakhand	Constable	Chest Normal - 78.8 CMs On Expansion-83.8 CMs Note 1. Minimum 5 CMs expansion is mandatory.	Advertisement	uttarakhandpolice.uk.gov.in
Rajasthan	Constable	Without expansion-81 CMs With expansion-86 CMs (minimum chest expansion 5 CMs)	Rajasthan Police Subordinate Service Rules, 1989	police.rajasthan.gov.in
Bihar	Sub Inspector	Without expansion-81 CMs (minimum) With expansion-86 CMs (minimum	Bihar Police Upper Service Commission	www.bpscc.bih.nic.in

11. A perusal of the aforesaid chart would reveal that a formula of minimum expansion of chest to the extent of 4/5 CMs is being adopted by various State Governments while making the recruitments to the post of Constable (list is not exhaustive). There is no dispute to the settled position of law that the court does not have the power to add or subtract even a single word under the garb of interpreting the provision. But at the same time, if literal meaning of words used in the statute leads to ambiguity and absurdity then it is bounden duty of the Court to apply Golden Rule of interpretation in order to give effect to the spirit of the law as the mere mechanical and grammatical meaning may not be sufficient. As Justice Holmes stated, “A word is not crystal, transparent and unchanged. It is the skin of the living thought and it may vary greatly in colour and content according to the circumstances and the time in which the word is used.” Though the provision qua chest measurement under Rule 12.15 (2) is not happily worded but the said provision has to be read harmoniously with the service rules/criteria adopted by various States

across the country, meaning thereby, in almost every State a minimum difference of 4/5 CMs has been prescribed between expiration and inspiration and therefore, it is the intention behind the legislation that has to be brought forth while interpreting the provisions of a statute, in case the words of the statutes are not clear, plain and unambiguous. In *New India Sugar Mills Ltd. v. Commissioner of Income Tax, Bihar* AIR 1963 1207, the Hon'ble Supreme Court has held that the enactments within a statute must ordinarily be understood in a way that furthers the object of the statute as well as that of the legislature, and if two constructions of the same enactment exist, the court will adopt the one that advances remedy and suppresses any mischief. If the literal rule of interpretation were to be considered every time, it would result in irregularity and uncertainty because a word can have different meanings when put in different contexts.

12. The argument raised by the petitioner(s) that the Rule 12.15 of the Punjab Police Rules as applicable to the State of Haryana does not specify a minimum difference between the unexpanded chest measurement and the expanded chest measurement fails, in view of the use of the preposition 'to'. The petitioner(s) cannot be permitted to interpret the word 'to' for their benefit as it would lead to a preposterous situation where there will not be any cut-off mark for inspiration and all the candidates whose chest measurement would cross the minimum criteria of expiration will be deemed to be qualified for the chest measurement, which in turn would open a Pandora of litigation. The argument that the petitioner(s) had qualified the PMT conducted by Chandigarh Police prior to appearing for PMT conducted by respondents herein as the rules application for Chandigarh allow for expansion of 1 centimetre between the unexpanded and expanded chest measurement. Moreover, it is not the fact that the respondents are unmindful of the ambiguity prevailing in Rule 12.15 of the Punjab Police Rules as applicable to Haryana and therefore, they have in the subsequent advertisement published on 30.12.2020 for 5500 posts of Male

Constable (General Duty) have clearly worded that criteria for chest measurement shall be **83 centimetres (un-expanded) to 87 centimetre (expanded) with expansion of 04 centimetre (minimum)** for General Category and **81 centimetres (un-expanded) to 85 centimetre (expanded) with expansion of 04 centimetre (minimum)** for reserved categories.

13. In view of the aforesaid finding, both the writ petitions are devoid of any merit and are therefore, dismissed.

(JAISHREE THAKUR)
JUDGE

April 02, 2022
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No