

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

CWP No.18012 of 2014 (O&M)
Date of Decision: April 05, 2022

Deepak Sharma

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Ms. Alka Chatrath, Advocate
for the petitioner.

Mr. Pawan Sharda, Sr. DAG Punjab.

Mr. M.S. Balianwali, Advocate,
for respondents No. 10 and 11.

JAISHREE THAKUR, J.

1. The instant writ petition has been filed for the issuance of an appropriate writ, order or direction, especially in the nature of *Certiorari*, for quashing the order dated 26.06.2013 (Annexure P-9) passed by respondent No.3, illegally rejecting the representation of the petitioner for non-selection on the post of Constable against the advertisement dated 11.09.2010 (Annexure P-1), by illegally upholding the selection and appointment of respondents No. 4 to 12, who were declared ineligible after having failed in the interview as per list (Annexure P-5) supplied by the Department under the RTI Act.

2. In brief, the facts of the case are that the Director General of Police, Punjab, issued an advertisement dated 11.09.2010, inviting

applications for 5578 posts of Male Constable Punjab Police in different Districts and the petitioner herein applied for recruitment in District Police Cadre Jalandhar (Rural). The petitioner appeared in the physical fitness as well as physical efficiency test and was subsequently called for the interview. It is alleged that without declaring/publishing any merit list, the candidates were given appointments. Thereafter, another advertisement was issued by respondents No.1 to 3 in the newspaper advertising 3776 posts of Male Constable and for Jalandhar (Rural), another 492 posts were advertised afresh. The petitioner through his counsel sought information from respondent No.3 for getting the list of the candidates, who have been declared failed in the interview and the list of candidates, who have been appointed in response to advertisement dated 11.09.2010. It is alleged that a perusal of Annexure P-5 would show that the list of candidates, who have been shown as failed in the interview, includes the names of respondents No.4 to 9, but they have been shown in the list of selected candidates as well whereas, respondents No. 10 to 12, who were originally placed at waiting list, have also been shown as failed candidates. Once, respondents No.4 to 12 have been declared as failed in the interview, there was no reason or justification in appointing respondents No.4 to 12 as Constables. In support of his contentions, the petitioner has placed on record, advertisement as Annexure P-1, interview letter as Annexure P-2, List as Annexure P-3, RTI reply as Annexure P-4, List as Annexure P-5, RTI reply as Annexure P-6, one judgment, two orders and one legal notice as Annexures P-7 to P-10 respectively and vernacular of only Annexures P-3, P-4 and P-6 have been placed on record. When the petitioner did not find

his name in the final result, he filed CWP No. 10366 of 2013 titled as “Deepak Sharma vs. State of Punjab and others”, which was disposed of by an order dated 14.05.2013 by directing the respondents to consider the claim of the petitioner for appointment against the vacant posts according to his merit. Pursuant to the said order, the Superintendent of Police (Rural) vide order dated 26.06.2013 rejected the claim of the petitioner, which has been challenged in the instant writ petition.

3. Notice of motion was issued in the matter, pursuant to which appearance has been caused on behalf of the respondents.

4. Learned counsel for the petitioner would argue that 22 names of the candidates were mentioned in the waiting list for the post of Male Constable under the General Category, whereas, the name of the petitioner is at Sr. No.23 in the waiting candidates. It is contended that upto 13 candidates from the waiting list have already been appointed due to non-joining of some of the candidates, as such, if the non-eligible 9 candidates are ousted, the petitioner, who is at Sr. No.23 in the waiting candidates, would be entitled to be appointed.

5. Per contra, learned counsel appearing on behalf of the respondent—State would submit that there is no question of failing or passing in the interview as there were no minimum marks prescribed for the interview, which carries a maximum of four marks. It is submitted that respondents No.4 to 6 and 9 secured total 26.50 marks and respondents No.7 and 8 secured 26 marks, as such, they were selected whereas, respondents No.10 and 11 secured 26 marks each and respondent No.12 secured 25.50 marks and respondents No.10, 11 and 12 were placed in the

waiting list. It is pointed out that although the petitioner secured 25.50 marks, yet he could neither find place in the list of selected candidates nor in the waiting list because as per the instructions issued by the Director General of Police, Punjab, Chandigarh, dated 19.03.2010 candidates younger in age were given preference over the candidates who were elder. It is further submitted that date of birth of the petitioner is 10.09.1985 whereas, date of birth of respondent No.12 is 01.11.1991, as such, respondent No.12 is younger than the petitioner, though both secured 25.50 marks.

6. I have heard learned counsel for the parties, apart from perusing the record.

7. In short, the claim of the petitioner is that though respondents No.4 to 9 had failed in the interview, as reflected in the list (Annexure P-5) yet they were selected and placed in the selection list and similarly, respondents No.10 to 12, who had also failed in the interview (Annexure P-5), were placed in the waiting list, as such, if name of these 9 ineligible candidates are removed, the name of the petitioner, who is at Sr. No.23 in the waiting list, would come.

8. As per the reply filed by the respondents, it is categorically stated that there is no question of failing or passing in the interview as there are no minimum marks prescribed for the interview, which carries a maximum of four marks.

9. A reading of Annexure P-3 would show that total 230 candidates were declared as selected and total 22 candidates were posted in the waiting list of the General Category and name of the petitioner does not

find mention in any of the list. The contention raised that persons who had failed the interview has been appointed is misleading. Learned counsel for the petitioner has relied on Annexure P/5, which is a typed document, not supported by a photocopy of the original nor signed by any of the respondent authorities. Consequently, such document cannot be relied upon.

A perusal of the merit list as produced in Court would show that only 22 candidates were placed in the waiting list and out of them only 13 candidates have been given appointment due to non-joining of the some of the candidates. The last person appointed at Sr. No. 13 has 26 marks. The petitioner was not placed in the waiting list, although he obtained 25.50 marks, as the last candidate in the waiting list is Mr. Davinderjit Singh, who had obtained 25.50 marks is younger in age to the petitioner, and the same has been done by the respondents, as per circular letter No.3474-79/E-1(4) dated 19.03.2010. There is also a statement given that no person having less marks than the petitioner has been appointed. A reading of impugned order dated 26.06.2013 (Annexure P-9) would show that the contentions of the petitioner were duly considered and decided by the authorities by a well speaking order, which does not warrant any interference.

10. In view of the above, the instant petition is hereby dismissed, being devoid of any merits.

April 05, 2022

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Whether speaking/reasoned

Whether reportable

(JAISHREE THAKUR)
JUDGE

Yes

No