

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 26477 of 2016
Reserved on: 13.05.2022
Decided on: 31.05.2022

RAGHVEER SINGH

Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Bharat Bhushan Sharma, Advocate
for the petitioner.

Mr. Pawan Sharda, Sr. DAG, Punjab.

Mr. Lovish Rattan, Advocate for
Mr. Surinder Sharma, Advocate
for respondent No.3.

JAISHREE THAKUR J.

1. The petitioner herein is seeking appointment on the rank of Constable in Punjab Police pursuant to having participated in the recruitment process under advertisement No.1/2016 published on 31.05.2016, under the wards of freedom fighter category.

2. In brief, the facts are that the petitioner applied under the advertisement No.1/2016 published on 31.05.2016, as issued by the State of Punjab. The respondents-State advertised 7416 posts of Male and Female Constables in Punjab Police in District Police Cadre and Armed Police Cadre. The

petitioner applied under the wards of freedom fighter category. He qualified the physical measurement test and was awarded the necessary marks. He was given 15 marks for his height, 14 marks for his educational qualification and thus obtained 29 marks in total. The grievance of the petitioner in the writ petition is that despite having obtained 29 marks, persons lower to him in merit have been offered appointment as in the case of respondent Nos.3 and 4. It is contended that the criteria of Selection Board is not justifiable for candidates like petitioner, who even after securing higher marks in education and physical measurement standards apart from being a National level player, have been deprived from selection by the Board.

3. Learned counsel appearing on behalf of the petitioner would contend that having obtained 29 marks in the physical measurement test with educational qualifications, he ought to have been considered for appointment. It is submitted that he could not complete his physical trials on the date he was called i.e. on 28.08.2016, as he was not well and was called again on 06.09.2016 and he cleared the race event, however, during long jump he was injured and was admitted to Civil Hospital, Bathinda and was recommended 5 days' rest, but without waiting for the completion of 5 days, he was called to complete the remaining physical events on 08.09.2016, on which date he cleared the events of long jump and high jump. It was argued that once he was permitted to undertake the trials and complete the remaining events on 08.09.2016, respondents could not deny him appointment only on the ground that he did not complete all events on the same date.

4. Pursuant to notice of motion having being issued, reply has been filed.

A categorical stand has been taken therein that the petitioner did not qualify the physical trials which was a condition precedent for appointment. It is submitted that the private respondent Nos.3 and 4 cleared the physical trials and were then selected under the category of wards of freedom fighter on their own merit. The physical trials were to take place on 28.08.2016 and on that date, petitioner did not participate in the race, long jump and high jump. He was called for physical trial again on 06.09.2016, on which date, during the long jump, he was injured and sent to Civil Hospital, Bhatinda with the recommendation of 5 days' rest. He again appeared before the Board for the remaining physical events on 08.09.2016 and on the said date, he cleared the remaining physical events of long jump and high jump. It is submitted that as per the terms of the advertisement, a candidate must qualify all the events on the same date and, therefore, since the physical trials were completed over a period of few days, the petitioner could not be considered for appointment even though he had total of 29 marks i.e. more than the last selected candidate.

5. I have heard learned counsel for the parties and with their assistance have perused the pleadings of the case.

6. The short issue involved in the present writ petition is whether the petitioner can be offered the post of Constable as prayed for, considering the fact that he did not complete the physical trials within the specified day. Admittedly, he was called for the physical trials on 28.08.2016 along with other candidates, on which date he did not complete as he was unwell. He was called again on 06.09.2016 as was evident from Annexure R-1 and he qualified the height and dope test but did not perform in the rest of the events and his final result was

declared as '*Not Qualified*'. It is the case of the petitioner that he was called for physical trial on 08.09.2016 and after completion of 1600 meter race, he had sores/ulcers on his feet and considering his written application and with the consultation of Dr. Rohit Garg, he was declared unfit for the next event, in which he did not perform. As per noting available, there was a proposal to allow him and 5 others similarly situated cases to be given an opportunity to take another attempt at the remaining events, however this proposal was declined by the Chairman, Central Recruitment Board, Punjab on 15.09.2016.

7. Learned counsel for the petitioner herein would contend that as per the written statement filed, petitioner has cleared the remaining events of the physical trial on 08.09.2016 and being successful could not be denied appointment. This argument would not be tenable in view of the fact that there is correspondence available on the record which reflects that right up till 16.09.2016, the Chairman, Central Recruitment Board, Punjab had not given permission to conduct fresh trials of the petitioner herein. There is an e-mail dated 09.08.2016 from the Director, Bureau of Investigation-cum-Chairman, Central Recruitment Board, Punjab addressed to the Senior Superintendent of Police, Barnala-cum-Chairman Recruitment Board stating that '*once a person has attempted the trial then he/she cannot be given any other date.*'

8. It is also interesting to note that the very writ petition filed has no mention of these particular facts, i.e the petitioner appeared on 28.08.2016 to take the physical test; could not do so; appeared on 06.09.2016 and completed his race but did not participate in the rest of events on account of sores/ulcers on his feet and had been declared as '*Not Qualified*'. All these facts are borne out from the

reply and then mentioned in the replication. These facts ought to have been mentioned in the writ petition at the very first instance.

9. Be that as it may, the petitioner has not been able to establish his indefeasible right to be considered for appointment, considering the fact that he did not complete his physical trials on one day. The selection criteria 4 were well laid out in the advertisement and the petitioner is now estopped from challenging the same. Once having participated in the selection process, he cannot be permitted to challenge the criteria as specified in the advertisement. It is not discernible as to under what circumstances the petitioner was asked to appear again on 08.09.2016, as there was no approval given by the Board to allow him another attempt. No doubt it is a case of hardship, but once there is no provision to allow a candidate to undertake the trials piecemeal, and he was allowed to do so *dehors* any such approval, the petitioner cannot claim a vested right. Since the petitioner has not been able to establish any infringement of right or discrimination meted out to him for persuading this Court to interfere, the instant writ petition is liable to be dismissed.

10. Ordered accordingly.

(JAISHREE THAKUR)
JUDGE

31.05.2022
Chetan Thakur

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No