

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.927 of 2017 (O&M)

Reserved on: 08.09.2022

Date of decision: 14.09.2022

HARINDER PAL SINGH SANDHU

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. K. S. Sidhu, Senior Advocate with
Mr. Laxman Choudhary, Advocate
for the petitioner.

Mr. Sehajbir Singh Aulakh, AAG, Punjab.

Mr. Balbir Singh Sewak, Advocate
for respondent No.5.

JAISHREE THAKUR, J.

1. This is a petition that has been filed seeking issuance of a writ, order or direction in the nature of certiorari for quashing clause No.9 in the notification dated 05.07.2016 (Annexure P-10) and clause No.8 of the advertisement (Annexure P-11), which states that candidate should have represented Punjab State in National Level Games and for quashing the appointment of respondent No.5 as Deputy Superintendent of Police being illegal and against the notification and advertisement as well as for issuance of a writ in the nature of mandamus directing respondent Nos.1 to 4 to consider the petitioner against vacancy of Deputy Superintendent of Police in the general category.

2. In brief, the facts are that the petitioner herein was born in the State of Punjab and is a resident of SAS Nagar, Mohali. He has a Voters Identity Card; Ration Card; Punjab Residential Certificate and Aadhar Card issued by the competent authority to establish his domicile. Petitioner remained as a student of Yadvindra Public School, Mohali up till 8th Class and excelled as a sportsperson in the field of *Squash*. In the year 2001, the petitioner participated in Scottish Junior Open Tournament, which is an international tournament and having won, he was selected in the Indian Junior Team and was being trained at the Indian Squash Racket Academy situated at Chennai under a National and a Foreign Coach. The petitioner shifted to Chennai on account of the fact that the Academy under which he was training was located therein, which was being funded by the Government of Tamil Nadu and Sports Authority of India. The petitioner has participated in National and International events and has claimed first position in 17th Asian Games, 2014 held at Incheon, secured first position in 4th Asian Beach Games, 2014 held at Phuket, Thailand and secured bronze medal in 12th South Asian Games, 2016 held at Guwahati. The petitioner has been recommended for cash award by respondent No.4 vide order dated 14.10.2014, which was duly approved by the Punjab Olympic Association. The petitioner while participating in the Indian team continued his study and graduated in the year 2014. He also passed Punjabi language examination in matriculation in the year 2016.

3. Respondent No.3, in order to honour the outstanding sportspersons, who glorified the name of Punjab State at National and International level, issued notification dated 05.07.2016 (Annexure P-10), proposing to fill up 125 posts in the Punjab Police under the sports i.e. 10 posts

of Deputy Superintendent of Police, 50 posts of Sub-Inspectors and 65 posts of Constables. Pursuant to notification No.1/7/14/4SS/789944/1 dated 05.07.2016, an advertisement (Annexure P-11) was issued by the Sports Department inviting applications for the aforesaid 125 posts. The petitioner being fully eligible for the post of Deputy Superintendent of Police, applied in the general category. On the basis of his achievements, the petitioner was selected and his name appeared at serial No.8 in the select list. However, when the final select list was issued, the name of the petitioner stood deleted and the name of respondent No.5 was shown in his place. Aggrieved against the action of the official respondents in not offering appointment to the petitioner, the instant writ petition has been filed.

4. Mr. K. S. Sidhu, learned Senior Advocate assisted by Mr. Laxman Chaudhary, appearing for the petitioner would contend that petitioner herein is a permanent resident of Punjab State having completed his schooling here apart from maintaining his Voters Identity Card; Ration Card; Punjab Residential Certificate and Aadhar Card and has glorified the name of Punjab State by representing India in National and International events. He has the necessary educational qualification to be appointed as Deputy Superintendent of Police and, therefore, appointment should have been offered to him. It is argued that as the petitioner herein has glorified the name of Punjab State, he ought to have been considered for appointment to the post of Deputy Superintendent of Police. He submits that the only reason that the petitioner herein shifted to Chennai for training was because the State of Punjab does not represent Squash at the National level. It is contended that Clause 9 of the notification (Annexure P-10) under which he has been denied appointment is that he has not

represented Punjab at National level, which has no connection with the object sought to be achieved i.e. to award Punjabis, who have participated in the International events and give them benefit of appointment in Punjab Police under the sports quota.

5. It is further argued that the name of the petitioner herein has been removed from the select list only to benefit respondent No.5, who was not duly qualified and, therefore, the appointment of respondent No.5 ought to be cancelled and the said post is to be offered to the petitioner. It is argued that as per the advertisement (Annexure P-11) that appeared on the website, it was mentioned that only those sportspersons will be eligible for the posts, who have won medal in the year 2012 Olympic Games and Games/Championships and the said condition has been removed just to benefit respondent No.5. It is submitted that there has been a deviation in the selection process after the advertisement was issued and Clause 8 of the notification (Annexure P-10) stands removed just to benefit respondent No.5. He would rely upon a judgment rendered by Supreme Court in ***Madan Mohan Sharma and another versus State of Rajasthan and others, 2008 (3) SCC 724***, wherein it was held that once the advertisement had been issued on the basis of the circular obtaining at that particular time, selection process should continue on the basis of the criteria which was laid down.

6. Per contra, Mr. Sehajbir Singh Aulakh, learned State counsel would submit that the petitioner herein though is a person, who has participated in several events both in India and abroad and has got accolades but would not be entitled to be offered appointment in terms of Clause 8 and 9 of the notification issued (Annexure P-10) on 05.07.2016. It is further submitted that

petitioner herein though a resident of Punjab has not represented the State of Punjab in any National level tournaments and is currently practicing at Indian Squash Racket Academy situated at Chennai.

7. Mr. Balbir Singh Sewak, learned counsel for respondent No.5 would submit that the petitioner herein has rightly not been selected as he was not eligible as he had never represented the State of Punjab and did not qualify clause No.9 of the notification.

8. I have heard learned counsel for the parties and have also perused the pleadings of the case.

9. Admittedly, the petitioner herein has been participating both in National and International tournaments pertaining to the field of squash sport. It is also not in dispute that the petitioner herein has Punjab Residential Certificate (Annexure P-3) as issued by the Executive Magistrate, Mohali establishing his permanent residence at SAS Nagar, Mohali (Punjab). The petitioner applied to be offered appointment as Deputy Superintendent of Police pursuant to an advertisement issued by respondent No.4 and various clauses were enumerated thereunder specifying qualifications etc. but Clause 8 of the advertisement (Annexure P-11) categorically specified that “***the candidate should be resident of Punjab and has represented Punjab at National level***”. The reason for this recruitment, as given in the written statement, was to promote sports within Punjab and to give appointment to outstanding sportspersons. The petitioner herein though a resident of Punjab and a person who has been representing India has never appeared or represented the State of Punjab in the said sport.

10. The argument that has been raised by the learned Senior Advocate for the petitioner that the petitioner herein had to shift to Chennai only on account of the fact that State of Punjab did not send any representation in Squash to the National level may have merit, but the petitioner cannot be allowed to draw strength from the said fact. The terms of the advertisement issued were very clear when it clearly stipulated that benefit will be given to those persons who have represented Punjab at the National level. The petitioner herein was well aware of the terms and conditions while applying for the post of Deputy Superintendent of Police and cannot raise the argument that he was unaware. In a judgment rendered by Supreme Court in ***Dhananjay Malik and others versus State of Uttaranchal and others, 2008 (4) SCC 171***, it was held that where the writ petitioners participated in the selection process without any demur; they are estopped from complaining that the selection process was not in accordance with the rules. If they think that the advertisement and selection process were not in accordance with the rules, they could have challenged the advertisement and selection process without participating in the selection process.

11. Learned Senior Advocate for the petitioner herein has also made a valiant attempt to challenge the appointment of respondent No.5 by contending that there has been a change in the notification by deleting Clause 8 of the notification dated 05.07.2016, which had clearly specified that “***this policy will be applicable to 2012 Olympic games and other tournaments in sports after 2012***”. However, this argument would not be applicable to the petitioner herein since the notification dated 05.07.2016 (Annexure P-10) issued by the Punjab Government to fill up 125 posts under the sports quota, on the basis of which

the advertisement was issued, was subsequently amended and the said Clause 8 therein stood quashed vide notification dated 27.09.2016. In fact, said notification came into effect after the same stood challenged in this Court in CWP No.15128 of 2016, titled as Sarvanjit Singh versus State of Punjab and others. Therefore, the plea that respondent No.5 herein has been given undue benefit, is not sustainable. Even otherwise, the grouse of the petitioner that respondent No.5 has been given appointment in place of him would not stand to reason since the petitioner himself is not eligible for appointment as he has not participated in Squash for the State of Punjab, and the benefit of appointment in the Punjab Police is to be given to those who have represented the State of Punjab.

12. Consequently, the instant writ petition, devoid of any merit, is hereby dismissed.

14.09.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No