

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

CWP-14858-2019

Date of decision : 29.05.2023

Sandeep Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Alka Chatrath, Advocate and
Ms. Manu Sangwan, Advocate for the petitioner.

Mr. Aman Pal, Addl. Advocate General, Punjab with
Dr. Sukhchain Singh Gill, IPS,
Inspector General of Police, HQ.

PANKAJ JAIN, J. (ORAL)

Present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari seeking quashing of the inaction of the respondent Department in preparing the list Annexure P-5 for the post of Constable against Advertisement dated 31st of May, 2016.

2. On 12th of April, 2023, the following order was passed :-

“On 20.03.2023 the following order was passed :-

“The matter relates to recruitment to the post of Constable. The petitioner claims to have been wrongly treated by granting 27 marks instead of 28. It has been asserted that height of the petitioner is more than 6 feet, whereas during the selection process he was measured as 5 ft.11.5 inches and later on as per the State counsel he has been again assessed to be, 5 ft.11.97 inches.

Learned counsel submits that as per the State authorities only i.e. the Government doctors as well as Jail Superintendent, the height of the petitioner has been measured to be beyond 6 feet. Counsel has relied upon the judgment passed by the Coordinate Bench in CWP No.984 of 2022 titled as 'Balwinder

Singh and others Vs. State of Punjab and others', to submit that wherever the petitioner wants to establish his height, the petitioner may file a Civil Suit.

In the considered opinion of this Court, so far as the height of a candidate is concerned, the same is not dependent upon declaration by civil suit, obviously, the same can be measured. A person who alleges to have been dealt unfairly by public authority, cannot be made to suffer prolonged ordeal, that too when issue can be well determined by the experts and the assistance of an expert is well permissible under law.

Resultantly, the objection raised by learned counsel representing State, sans merit and is hereby rejected.

In view of the fact that there are two conflicting opinions with respect to the height of the petitioner coming from the respondent-State itself, this Court finds it fit that an independent agency be asked to submit report after measuring the height of the petitioner.

In view of the said circumstances, petitioner is directed to appear before Medical Board to be constituted by the Director, PGIMER, Chandigarh on 24.03.2023. On appearance of the petitioner, his height shall be measured by stadiometer and the report of such measurement shall be placed before this Court on or before 12.04.2023.

Adjourned to 12.04.2023.

Mr. Amit Jhanji, learned Senior standing counsel for PGIMER, Chandigarh is requested to convey the aforesaid order passed by this Court to the Director, PGIMER, Chandigarh."

Today sealed envelopes submitted by the PGIMER have been opened. The report submitted by the Board constituted by Director PGIMER reads as under :-

Report of the Medical Board

A medical board was constituted by PGIMER, Chandigarh vide office order no. EV (9) PGI-MS/MA- 63/2023 dated 24.03.2023 for height measurement of the petitioner Sandeep Singh S/o Surjit Singh as per orders of Hon'ble Punjab and Haryana High court at Chandigarh.

The meeting of the medical board consisting of undersigned members was held on 25.03.2023 at 10.00 am, in Growth lab, Advanced Paediatric Centre, PGIMER, Chandigarh. As the height of the petitioner was required to be measured by scientific instrument i.e. Stadiometer which is available in Growth lab, Dept. of Paediatric Medicine in Advanced Paediatric Centre, PGIMER, Chandigarh, so the in-charge of the growth lab Dr. Harvinder Kaur was co-opted in the medical board.

After taking the consent of the petitioner Sandeep Singh, his signature, two recent passport sized coloured photographs, left thumb impression, and self-attested copy of photo ID card, his height was measured by Stadiometer (Make: Holtain Limited, Crymych, Dyfed, UK) located in the Growth Lab, Dept. of Paediatric Medicine in Advanced Paediatric Centre, PGIMER and during the process his photographs were taken which are enclosed with name of the applicant along with signatures of the board members.

Report of the Height measurement

<i>Name:</i>	<i>Measurement of the Height</i>
<i>Sandeep Singh</i>	<i>183.5 cm (One Hundred Eighty three cm and five mm)</i>

The result of the medical examination of the petitioner belies the result of the committee. The controversy has its genesis in the recruitment initiated vide public notice dated 31.5.2016 whereby the applications were invited for the post of Males & Female (Constables) in District Police Cadre and Armed Police Cadre, Punjab. Physical measurement is one of the main criteria for such recruitment and the height of a candidate is a major feature that fetches one requisite marks on the basis of which merit is formulated. There was a controversy with respect to the measurement of height which reached this Court in CWP No.2985 of 2016 and other cases. Writ Court vide order dated 25.04.2018 directed the department to re-measure the height of all candidates once again. Feeling aggrieved the department preferred the intra Court appeal bearing LPA No.1263 of 2018, the same was later on withdrawn meaning thereby that the directions issued by the Single Judge hold the field and in compliance thereof all the candidates including the petitioner were again put to measurement of height. The respondents measured the height of the petitioner at 5 feet 11.97 inches i.e. below 6 feet which stands totally belied by the report received from the Medical Board of PGIMER today in the Court.

In the considered opinion of this Court, the conduct of the respondents-authority not only reflects on the way they treat and defeat the orders passed by the writ Courts but also the manner in which innocent youth of the State is being treated.

Let respondent No.2-The DGP, Punjab and Secretary, Department of Home Affairs & Justice file affidavits to explain this.

Adjourned to 29.05.2023.”

3. Today, State has filed additional affidavit of Anurag Verma, IAS, Additional Chief Secretary to Govt. of Punjab, Department of Home Affairs and Justice, i.e. respondent No.1 & affidavit of Gaurav Yadav, IPS, Director General of Police, Punjab have been filed, which are taken on record, and submits that he has instructions to state that acting upon the measurement as recorded by the Medical Board constituted under the aegis of PGIMER, Chandigarh, the claim of the petitioner shall be considered and

he shall be granted all notional benefits by deeming him to be in service from the date persons at par with the petitioner or junior to him have been appointed.

- 4. Counsel for the petitioner submits his satisfaction to the aforesaid statement suffered by the State Counsel.
- 5. The writ petition is disposed off accordingly.
- 6. Needful be done within a period of four weeks from the date of receipt of certified copy of this order.

May 29, 2023
Dpr (PANKAJ JAIN)
JUDGE

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