

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No. 788 of 2023 (O&M)
Date of Decision: 04.07.2023

Abhinashpreet Singh SohiAppellant

versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present : Mr. Shashak Shekhar Sharma, Advocate,
for the appellant.

RAVI SHANKER JHA, CHIEF JUSTICE (oral)

CM No. 2025 of 2023

For the reasons set out in the application, delay of 50 days in filing the appeal is condoned. Application stands allowed.

LPA No. 788 of 2023 (O&M)

This appeal has been filed by the appellant being aggrieved by the order dated 16.03.2023 passed in Civil Writ Petition No. 5350 of 2023 dismissing the petition filed by the appellant-petitioner wherein he had prayed for a direction to the respondent-authorities to allow the petitioner to appear for the Stage-II test (Physical Screening Test, Physical Measurement Test and Documents Scrutiny) for the post of Sub Inspector in the cadre of District Police and Armed Police, which was conducted pursuant to an advertisement dated 06.07.2021.

The petitioner has submitted that he had appeared in the written examination conducted by the authorities on 16.10.2022 in which he had passed and thereafter was required to appear for the Stage-II test which was

scheduled for 17.11.2022. However, the petitioner could not appear for the Stage-II test as he choose to appear and participate in another examination conducted on the same day for selection and appointment on the post of Probationary Officer in the State Bank of India. The petitioner further submits that thereafter he had filed a representation before the competent authority for grant of another opportunity to appear for the Stage-II test. However, as the same was not granted to him, he had filed a petition before the learned Single Judge which was dismissed by the learned Single Judge vide the impugned order. The learned Single Judge in the impugned order has clearly stated that two necessary requirements were required to be fulfilled by the petitioner for seeking a writ of mandamus i.e. the petitioner has a legal right vested in him qua the relief being claimed and that there is a corresponding duty casted the respondents to grant the said relief, and both the requirements are missing in the present petition. Learned Single Judge has accordingly dismissed the petition.

Learned counsel for the appellant submits that the respondent authorities in some other examination conducted by them had granted a second chance to the candidates who could not appear in the physical test examination and therefore, a similar yardstick should have been adopted by them in the case of the appellant-petitioner also and his representation should have been allowed. He submits that this aspect has not been considered by the learned Single Judge and therefore, the impugned order deserves to be set aside.

We have heard learned counsel for the appellant at length.

While we are in respectful agreement with the conclusion and the findings recorded by the learned Single Judge, as far as the rejection of the petitioner's prayer seeking a writ of mandamus is concerned. We are also

of the considered opinion that the petition itself as well as the appeal filed by the petitioner-appellant are misconceived inasmuch as the petitioner has filed a representation on 16.12.2022 seeking grant of second chance to appear for the Stage-II test examination which was rejected by the authorities vide communication dated 19.12.2022, a copy thereof has been attached by the petitioner along with the petition on page No.97. The authorities vide the said communication informed the appellant-petitioner that the last date for the trial is 17.12.2022 and there would be no further date available for rescheduling the physical test examination. Evidently, this communication rejecting the petitioner's request by the authorities has neither been challenged by the petitioner in his petition nor any grievance in that regard has been raised and as a consequence it has attained finality. Once the petitioner has chosen not to challenge the communication rejecting his representation, we do not find any reason to interfere in the findings recorded by the learned Single Judge.

Quite apart from the above, it is also evident that the date for physical test examination was 17.12.2022 and the petitioner filed the representation on 16.12.2022 and the decision rejecting the same was communicated to the petitioner on 19.12.2022 whereas the petition was filed by the petitioner before this Court on 13.03.2023 after a long lapse of five months without assailing the order rejecting his representation. In such circumstances and looking to the time lapse in respect of assailing the rejection and making a request for additional opportunity of hearing being belated, we do not find any reason to entertain the present appeal.

We are also persuaded to arrive at a conclusion stated above in view of the fact that there were several candidates who had participated in the examination and as a similar and uniform yard stick has to be adopted

for all the candidates appearing in the examination, no exception or special benefit can be granted to an individual specially one who deliberately not appeared in the physical test examination as per his own choice and wisdom and on the contrary choose to appear in another examination which was held on the same date. The petitioner having made such a choice consciously and not having been prevented from the examination for any other unforeseen circumstances beyond his control, the prayer made by the petitioner is therefore, misconceived. Accordingly, we do not find any reason to entertain the present appeal and the same stands dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

04.07.2023
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Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No