

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

**CWP No.20178 of 2017 (O&M)
Date of Decision : 20.03.2023**

Tushar Mahla

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. H.S. Maan, Advocate
for the petitioner.

Mr. Inderpreet S. Kang, Asstt. Advocate General, Punjab.

PANKAJ JAIN, J.

Petitioner prays for issuance of a writ in the nature of certiorari quashing selection process of Constables initiated vide Public Notice dated 31st of May, 2016. Further prayer is for quashing of standing order No.1 of 2016.

2. Respondents invited applications for 7416 posts of male and female Constables in District Police Cadre and Armed Police Cadre vide Public Notice dated 31st of May, 2016. The Public Notice provided that the candidates who qualify physical measurement and physical screening test, range-wise preliminary merit list will be drawn separately for District Police Cadre and Armed Police Cadre on the basis of marks obtained by the candidates in height, measurement and educational qualifications. Central Recruitment Board will combine

all preliminary merit lists and draw three separate Statewide preliminary merit list and on the basis thereof Statewide Preliminary Board shall select candidates for interview-cum-personality test. The interview-cum-personality test shall carry four marks.

3. The petitioner claims to have qualified requisite physical measurement and educational qualification for appointment as Constable and claims to have successfully passed the physical screening test. It has been claimed that the merit list has been prepared on the basis of date of birth. The candidates who are elder in age have been shown higher in merit. It has been further claimed that the interview process has thereafter been given away which is against the settled proposition of law.

4. At the outset, State Counsel submits that the issue in hand already stands adjudicated by Co-ordinate Bench of this Court in **CWP No.22985 of 2016** titled as '**Raghvir Singh and others vs. State of Punjab and others**', decided on 5th of July, 2021 wherein it has been held as under :-

“16. Learned counsels, inter alia, contended vehemently that:

(a) Non-conducting of the interview-cum-personality test is in violation of the advertisement and has unfairly deprived the petitioners an opportunity to improve their over-all score and merit and thus caused serious prejudice to them. As per the advertisement, an interview-cum-personality test carrying maximum four marks was to be

conducted and the marks obtained by the candidates in the interview-cum-personality test were to be added to the marks obtained for educational qualifications and height and their gross total marks were to be the basis to determine their over-all score for preparing final merit list.

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19. Following material questions for adjudication are being formulated by this court :

- (i). Whether the petitioners' challenge to the non-conducting of interview is maintainable ?
- (ii). If answer to (i) above is in the affirmative, whether any material prejudice has been caused to the petitioners by non-conducting of the interview-cum-personality test?
- (iii). Whether candidates who secured lesser marks than the petitioners in 10+2 examination and those shorter in height have been selected ?
- (iv). Whether the petitioners challenge to the formula for award of marks on the metrics of educational qualifications is tenable?
- (v). Whether the petitioners challenge to the formula for determination of merit in the event of two or more candidates securing equal marks is tenable ?

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21. Let us now take up the formulated questions for adjudication, in seriatim. (i). Whether the petitioners' challenge to the non-conducting of interview is maintainable ? (ii). If answer to (i) above is in the affirmative, whether any material prejudice has been caused to the petitioners by non-conducting of the interview-cum-personality test?

21.1. To my mind, it is best left to the wisdom of the competent authorities to decide the educational qualifications and other

requirements, including a decision for or against holding of interview carrying weightage and formulae to determine merit for selection to the posts, consistent with the nature and level of the job. In the absence of something patently wrong with the decision of the competent authority, judicial intervention therein would be unwarranted. Here, the competent authority decided the educational qualifications and other requirements, the formulae to determine merit and took a conscious decision against the holding of interview-cum-personality test with weightage of marks for selection. Considering the level and nature of job of a police constable, I find no justification for holding of interviewcum-personality test and/or weightage of marks obtained therein to be kept as an essential requirement for selection.

21.2. At the time of applying for the posts and participating in the process of selection, the petitioners were very well aware of the advertised/publicized formula of awarding marks on the metrics of educational qualifications; marks for height and that no interview would be held and the selection of applicants will be made only on the basis of their total marks obtained i.e. marks obtained in height measurement and marks obtained in 10+2 examination and will be selected accordingly. The petitioners are, therefore, precluded from challenging the said formulae after unsuccessful participation therein.

21.3. In **CWP No. 24202/2017 Bhagat Singh v. State of Punjab and others** decided on 26.10.2017, the challenge was to the offending clause 6(a) of the same Standing Order No. 1/2016 (Annexure P-2 herein) which provides that in the event of the candidates having equal marks, the candidate senior in age shall be higher in rank. A co-ordinate bench of this Court (Tejinder Singh Dhindsa, J.) held as under:

“5. It is by now well settled that if a candidate participates in a process of selection wherein the eligibility criteria as also criteria for selection stands disclosed before hand, such candidate cannot, thereafter, upon having been

unsuccessful, be permitted to turn around and to contend that the eligibility criteria was arbitrary and wrongly framed. A reference in this regard may be made to the decisions of the Hon'ble Supreme Court of India in Madan Lal and others v. State of Jammu & Kashmir, AIR 1995 SC 1088 and G.N.Nayak v. Goa University 2002(1) S.C.T.1052."

21.4. I am in respectful agreement with the aforesaid view taken by my learned brother. It follows, therefore, that the petitioners, having participated in the process of selection wherein it had been disclosed beforehand that no interview-cum-personality test would be conducted, on having remained unsuccessful, are precluded from challenging the non-conducting of interview-cum-personality test.

21.5. Obviously, the interview-cum-personality test was dropped as a policy measure to bring more transparency and eliminate chances of subjective and erroneous assessment in awarding marks for the interview. That apart, the decision had also the obvious merit of eliminating any possibility of the selection being influenced for extraneous considerations through any unethical, unscrupulous and unfair means.

21.6. Also to be noted, that after the publication of advertisement Annexure P-1, Komal Kumar and 27 other petitioners had filed a CWP No. 12661/2016 (later dismissed as withdrawn on 19.9.2016) challenging the clause for conducting interview-cum-personality test and asserting that conducting of interview for class C and D posts was contrary to Central and Punjab State Governments' instructions. In these circumstances, ex-facie the holding of interview-cum-personality test carrying marks and giving weightage qua the same in determining merit was unlikely to stand legal scrutiny.

21.7. As no interview was conducted across board and on this aspect all the candidates were treated alike, there was no possibility of any discrimination with any candidate by awarding marks arbitrarily and subjectively in the interview.

21.8. I am thus unable to accept the contention on behalf of the petitioners that if the interview-cum-personality test carrying marks had been held, they could have secured more marks than other candidates and come up higher in the merit than the other successful candidates. This contention is nothing more than the petitioners' own self-serving, unfounded and far-fetched speculation and is totally devoid of any merit."

He further submits that the said judgment was upheld in LPA No.1263 of 2018 dated 19th of March, 2021 and also stands affirmed by Supreme Court in SLP(C) No.021518 – 021522/2022 vide order dated 25th of November, 2022.

5. Counsel for the petitioner is not in position to dispute the aforesaid fact.

6. In view of the above nothing survives in the present writ petition and the same is disposed off in terms of law laid down in **Raghvir Singh's** case (supra).

March 20, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No