

CWP-1512-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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Date of Decision: 06.08.2024.

Sukhvinder Singh and others

...Petitioners.

Versus

State of Punjab and another

....Respondents.

**CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Yagyadeep, Advocate
for the petitioners.

Mr. S.S. Gill, Sr. DAG, Punjab.

LISA GILL, J. (Oral)

1. Prayer in this writ petition is for setting aside clauses 8(c) and 16 of the standing order No.2 of 2021 (Annexure P2) and clause 9.3 of the Advertisement dated 16.07.2021 (Annexure P3), whereby it has been stipulated that no waiting list shall be prepared for the unfilled vacancies.
2. Petitioners claim that being eligible for the post of Constable, they applied for the said post after issuance of advertisement dated 16.07.2021 (Annexure P3). All the petitioners qualified the written examination held on 26.09.2021 and petitioners also cleared Stage-2 examination. However, they were not reflected in result (the list of selected candidates) declared on 06.01.2022. Complete merit list, it is submitted was

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not released and neither has any waiting list been prepared.

3. Primary argument raised by learned counsel for the petitioners is that several vacancies would remain unfilled pursuant to the recruitment process, therefore, in such a situation it is imperative that respondents should prepare a waiting list in order to obviate wastage of public exchequer and to facilitate smooth administrative functioning. It is thus prayed that this writ petition be allowed.

4. Learned counsel for the State opposed the writ petition while submitting that there is no provision whatsoever for preparing waiting list, therefore, writ petition deserves to be dismissed.

5. We have learned counsel for the parties at length and have perused the file.

6. At this stage, it is relevant to refer to clause 8(C) of the standing order No.2 of 2021. The said standing order lays down the criteria, procedure and detailed guidelines for recruitment of District Police Cadre and Armed Police Cadre of Punjab Police and Clause 8(e) whereof provides for finalization of the merit list. As per clause 8(c), it is specifically provided that there shall be no waiting list. The same reads as under :-

“8. MERIT LISTS

(a) xx xx xx xx

(b) xx xx xx xx

(c) *There shall be no waiting list.*”

7. Further, Clause 16 of the standing order reads as under:-

“In case a vacancy remains unfilled on account of disqualification of selected candidates in medical examination/

character and antecedents verification/ verification of education/ reservation certificates or due to non joining of selected candidate(s) or on account of any other reason, after the above mentioned process, such vacancies shall be carried over to next selection.”

8. It is to be noted that in the advertisement dated 16.07.2021, it is specifically mentioned in clause 9.3, that there shall be no waiting list.

9. From the factual matrix of the case it is evident that petitioners do not have a vested right to insist upon preparation of a waiting list and that too in the teeth of specific rules to the contrary. The issue agitated in the present petition is no longer res-integra. It has been held by Hon'ble Supreme Court that there is no requirement of preparation of waiting list and that candidates are not entitled to appointment on unfilled posts even by virtue of preparing the waiting list.

9. It is observed by Hon'ble Supreme Court in case **Vallampati Sathish Babu Vs. State of Andhra Pradesh and others,** in Civil Appeal No.2473-2022, decided on 19.04.2022 as held as under:-

“8. 8. Now, the submission on behalf of the appellant that as per sub-rule (5) of Rule 16, all the 33 posts notified are required to be filled is concerned, the same has no substance. Sub-rule (5) of Rule 16 is required to be read as a whole and in its entirety and the same is required to be read alongwith the Guidelines issued. What is provided under sub-rule (5) of Rule 16 is that the number of candidates selected shall not be more than the number of vacancies notified. However, it further provides that there shall be no waiting list and posts, if any, unfilled for any reason whatsoever shall be carried forward for future recruitment. Therefore, there shall not be any

appointment of more than the number of vacancies notified but that does not mean to prepare and operate the waiting list, which otherwise is specifically not provided for under the Rules, 2012.

8.1 An identical question came to be considered by this Court in the case of Suresh Prasad and others (supra). In the said decision, it is specifically observed and held that even in case candidates selected for appointment have not joined, in the absence of any statutory rules to the contrary, the employer is not bound to offer the unfilled vacancy to the candidates next below the said candidates in the merit list. It is also further held that in the absence of any provision, the employer is not bound to prepare a waiting list in addition to the panel of selected candidates and to appoint the candidates from the waiting list in case the candidates from the panel do not join. The aforesaid decision of this Court has been subsequently followed by the Andhra Pradesh High Court in the case of Samiula Shareef and others (supra)”

10. In the aforesaid case, Vallampati Sathish Babu (supra), preparation of waiting list was not permissible in term of the applicable Rule 16.5.

11. Learned counsel for the petitioner is unable to point out any ground to indicate that insertion of such provisions in the recruitment process is not permissible or is arbitrary, discriminatory or violative of the Constitution of India. No argument in this respect was advanced except to say that non preparation of waiting list leads to needless wasteful expenditure and is not in consonance with smooth administrative functioning. Such argument is clearly devoid of any merit. It is the discretion of the employer to have the provision of a waiting list or not in

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the selection process. No ground for any interference is called for by this Court in exercise of jurisdiction under Article 226 of Constitution of India.

12. Keeping in view facts and circumstances as above, writ petition is dismissed with no order as to cost.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

06.08.2024.
komal

Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No