

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

LPA-1717-2023 in CWP-13302-2022
Reserved on 05.08.2024
Pronounced on: August 09, 2024

Gurvinder Singh and othersAppellants

Vs.

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Dheeraj Mahajan, Advocate
for the appellants.

Mr. Maninder Singh, Sr. D.A.G. Punjab

SUDEEPTI SHARMA J.

The present Letters Patent Appeal (LPA) is filed against judgment dated 20.01.2023 passed by learned Single Judge, whereby the writ petition filed by the appellants/petitioners praying for issuance of mandamus to the respondents to appoint them as Jail Wardens, was dismissed.

BRIEF FACTS OF THE CASE

1. The brief facts of the case are that Advertisement No.2 of 2011 dated 12.10.2011 was published in various newspapers inviting applications from the eligible candidates for recruitment to 527 posts of Jail Warders and 36 posts of Matrons. The relevant portion of the same is reproduced hereinafter:-

Sr. No.	Name of Post	Number of Posts	Reservation Category wise		Education qualification
1	Warder 5910-20200-	527	G.C OBC	221 156	Eight pass with Punjabi,

	1900		B.C F. Army personnel Sportsperso n Freedom Fighters	61 68 (O.B.C) R.C 20, G 40) 16 (R.C.5, G 11) 05	preference will be given to candidate having higher qualification. Height 5'6", (5.4 ½ in Gorkha and Dogra Cases. Chest 32"(minimum)
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SUBMISSIONS OF THE COUNSEL

2. Learned counsel for the appellants submit that learned Single Judge rejected their claim of issuance of direction to the respondent to re-consider the candidature of the appellants for appointment to the posts of Jail Warders. He further submits that appellants are eligible and have successfully completed the physical requirements as per the advertisement. He further contends that the higher qualification possessed by the appellants at the time of counselling should be considered by the respondent-authority, since the selection was pending from 2011 to 2019.
3. Per *contra*, learned counsel for the respondents submit that the higher qualification/ the qualification of the candidates/eligibility is to be seen as on the last date of submission of applications which in the present case was 25.10.2011.
4. We have heard learned counsel for the parties and perused the whole record.
5. Reply by way of affidavit of Sh. Lalit Kumar Kohli, has been filed on behalf of respondents No.3 and 4. The relevant portion of the same is reproduced as under:-

“3. *That an advertisement was published in various newspapers on 12. 10.2011 whereby office of Additional Director General of Police, Prisons, Punjab, Chandigarh invited applications from eligible*



candidates for recruitment to 527 posts of warders and 36 posts of matrons.

4. *That Sh. Paramraj Singh Umranangal, Deputy Inspector General of Police was appointed as Chairman of Departmental Selection Committee. District Level Recruitment Committees were also constituted to carry out the recruitment at District level under Chairmanship of Sh Paramraj Singh Umranangal, IPS. These committees were headed by the Senior Superintendents of Police of the respective districts. The role of district level committees was to scrutinize records, applications and check eligibilities of candidates and make recommendations to the Departmental Selection Committees. On the basis of Physical test carried out by the District Level Recruitment Committees, the above said committee awarded marks on the basis of educational qualification and height.*

5. *That the Government of Punjab appointed Sh Jatinder Jaun, IPS, as Chairman of selection committee in place of Sh. Paramraj Singh Umranangal, IPS. He examined the record and results related to the candidates prepared by the earlier committee and found many discrepancies and the same was intimated to the Principal Secretary, Government of Punjab, Department of Jails on 17.05.2013.*

6. *That the meetings were held with the Principal Secretary Home, (Home Affairs and Justice) and Jail Minister in this regard, wherein it was discussed and decided that recruitment process should be cancelled because of many discrepancies in the result. The case was sent to the Hon'ble Chief Minister, Punjab. The Hon'ble Chief Minister, Punjab gave his approval for cancellation of recruitment process on 18.05 2014.*

7. *That after the cancellation of recruitment, a number of writ petitions including **CWP No. 15409 of 2014 titled as "Lachhman Singh and others** versus State of Punjab and others" were filed before this Hon'ble Court. This Hon'ble Court passed the common order dated 17.12.2016, the operative part of which is as under:-*

"Accordingly, I am of the considered view that the writ petitions bearing CWP Nos. 15409, 19535, 18789 of 2014, 16197, 17322, 16443, 19943, 20630, 20488, 25625, 26405,



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7765, 16375, 853, 21591 of 2015, 1146, 9000, 10436, 12278, 1402, 14852, 15662, 19647, 19755, 17737, 17957, 19223, 19434, 21646, 22850, 23449, 23731, 23811, 23853, 23488, 25583, 25859, 26120, 26164, 26234 and 26235 of 2016 deserve to be allowed and impugned notice dated 5.6.2011 (Annexure P-3) vide which the selection process was cancelled is hereby quashed.

However, the respondents are directed to consider the claim of the petitioners and fulfill the requirement of physical test by adopting the criteria as per advertisement and prepare a fresh merit list. In case, they are found to be eligible by considering the criteria as mentioned in the advertisement and corrigendum, they be considered for appointment against the vacancies which are lying vacant. The necessary exercise be done within a period of four months from the date of receipt of certified copy of the order"

8. *That in pursuant to the said order, a Central Recruitment Board had been constituted under the chairmanship of Sh.B. Chandra Shekhar, IPS, Inspector General of Police for the post of Warders/ Matrons for further selection process by the State Government vide its memo no.1/118/2010/2]/922181/1 dated 09-02-2017.*

9. *That the recruitment process has been followed by Standing Order No. 1 of 2012, duly approved by the State Government. The selection process had the following three components.*

I. Physical Measurement Test

II. Physical Efficiency Test

III. Interview

That at the first stage of recruitment, the office of Director General of Police, Punjab had issued the directions regarding forming sub-committees headed by concerned district SSPs for re-checking the physical measurements and educational qualification and preparing results thereof vide office order no. 3018-19/E-1(4) dated 14-03-2017. The sub



committees at district level had submitted their result after re-checking of Physical Measurement and Educational qualification of the candidates.

That at the second stage of recruitment, the result submitted by the sub-committees had been scrutinized by the Central Recruitment Board. A common merit list had been prepared. On the basis of merit list the candidates who were found provisionally eligible were called for interviews. After the interviews of candidates the result has been compiled and the recruitment process has been finalized.

*10. That the office of the deponent published the results on 06.12.2017 by mentioning the merit list of all the candidates alongwith the marks in physical test, educational qualification and interview on the official website of Punjab Police ie. **punjabpolice.gov.in**. It is also pertinent to mention here that appointment letters have also been issued to the candidates in the merit in their respective categories.*

11. That in above said advertisement of the posts of Warders (527 posts) of 2011, the categories wise breakup of the ibid posts, cut off marks for interview, number of candidates called for interview and final cut off marks after interview have been given in the below chart:-

Sr. No	Category	No. of posts	Cut off marks for interview	No. of candidates called for interview	Final cut of marks after interview
1.	General	220	26	602	29
2.	SC-VMS	78	23	389	25.63
3.	SC-others	78	24	450	26.38
4.	BC	61	25	262	26.63
5.	Ex-Serviceman GC	37	22	149	25.83
6.	Ex-Serviceman SC-VMS	11	18	34	24
7.	Ex-Serviceman-others	10	19	34	24.88
8.	Ex-Serviceman	10	19	16	22.13



	BC				
9.	Sportsman GC	11	19	32	25.50
10.	Sportsman S-C-VMS	03	0	0	0
11.	Sportsman SC-others	02	19	19	20
12.	Sportsman BC	0	0	0	NIL
13.	Wards of Freedom fighters	05	24	24	27

12. That in regard to the issue raised by this Hon'ble court vide order dated 16.11.2023, it is respectfully submitted that the criteria of awarding the educational qualification marks has been laid down as per the Standing Order No. 1 of 2011. duly approved by the State Government (A copy of Standing Order No. 1 of 2011 is annexed herewith as Annexure R-1) and also reproduced as under:

Educational Qualification (Warder)

Qualification	Marks
Middle	8
Matric	9
10+2(ICSE, PSEB, CBSE or equivalent)	10
B.A.-I, B.Sc.-I/B.Com-I or equivalent	11
B.A.-II, B.Sc.-II/B.Com-II or equivalent	12
B.A.-III, B.Sc.-III/B.Com-III or equivalent	13
M.A LLB/ENG. M.Sc/M.CA/MBBS/MPED/BDS or equivalent	14
M.Phill/Phd/LLM	15

Qualification	Marks
6' & above	15 Marks
5'11" & above	14 Marks
5'10" & above	13 Marks
5'9" & above	12 Marks
5'8" & above	11 Marks
5'7" & above	10 Marks
5'6" & above	9 Marks



13. That the Candidates/Appellants were required to fill up important personal details including educational qualification possessed etc. The Candidates/Appellants had applied for the post of warder and mentioned his educational qualifications in column No. 9 "Educational Qualification of the application form. In the said form the Candidate/Appellant No 1 had mentioned his Educational Qualification as Matric (10th), Candidate/Appellant No. 2 had mentioned his Educational Qualification as 12th and the Candidate/Appellant No. 3 had mentioned his Educational Qualification as 12th Therefore, the Candidates/Appellants were awarded the marks accordingly (**Application forms of the appellants are annexed herewith as Annexure R-2/T, R-3/T, R-4/T respectively.**)

14. **Participation of the appellants in the recruitment of Warders and Matrons of 2011.** It is brought to the kind notice of Hon'ble Court that opportunity of participation was given to all the petitioners like other candidates and they availed it accordingly and participated in the said recruitment. The details of marks obtained by them are given below as under:

(1) **Candidate/Appellant No.1 Gurvinder Singh:** That the Candidate/Appellant no 1, who had applied under General Category. He was called for re- measurements and re-checking the educational qualification. Marks of height and educational qualification were awarded to the petitioner as per the Standard Operating Procedure. The Candidate/Appellant obtained the following marks:-

Name of the candidate	Category	Total obtained marks		Result
GURVINDER SINGH S/O KIRPAL SINGH	General	24		Not qualified for interview
		HEIGHT	EDU	
		15	9	

It is further submitted that the cut-off marks in General Category was 26 marks for interview. Therefore, after the measurement and educational qualification, he obtained total score 24 marks which were less than that of cut off marks for interview of his respective



category General i.e. 26 marks.

(II) Candidate/Appellant no.2 Gurjant Singh: That the Candidate/Appellant no. 2, who had applied under General Category. He was called for re-measurements and re-checking the educational qualification. Marks of height and educational qualification were awarded to the petitioner as per the Standard Operating Procedure. The Candidate/Appellant obtained the following marks:-

Name of the candidate	Category	Total obtained marks		Result
GURJANT SINGH S/O KIRPAL SINGH	General	24		Not qualified for interview
		HEIGHT	EDU	
		14	10	

It is further submitted that the cut off marks in General Category was 26 marks for interview. Therefore, after the measurement and educational qualification, he obtained total score 24 which were less than the cut of marks for interview of his respective category General i.e. 26 marks.

(III) Candidate/Appellant no.3 Gurjinder Singh: That the Candidate/Appellant no 3, who had applied under General Category. He was called for re- measurements and re-checking the educational qualification. Marks of height and educational qualification were awarded to the petitioner as per the Standard Operating Procedure. The Candidate/Appellant obtained the following marks:

Name of the candidate	Category	Total obtained marks		Result
GURJINDER SINGH S/O SURJIT SINGH	General	22		Not qualified for interview
		HEIGHT	EDU	
		12	10	

It is further submitted that the cut-off marks in General Category was 26 marks for interview. Therefore, after the measurement and educational qualification, he obtained total score 22 which were less than the cut of marks for interview of his respective



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category General i.e. 26 marks.

15. That It is brought to the kind notice of this Hon'ble Court that the Candidate/Appellant No. 1 has completed the graduation (BCA) in 2014, similarly, Candidate/Appellant No 2 has completed the graduation (B.A) in 2014 and Candidate/Appellant No. 3 has completed the graduation (B.Com.) in 2012 after the last date of submission of the applications form i.e. 25.10.2011. A person who has acquired the prescribed qualification after the prescribed date as mentioned in the advertisement cannot be considered at all. It is an established principle of recruitment process that merely the Educational Qualification acquired by the candidate at the time of filling the application form can be considered for the appointment.”

6. The relevant part of the judgment passed by learned Single Judge, dated 20.01.2023 in CWP-13302 of 2022 is as under:-

“4. Keeping in view the aforesaid facts, the petitioners cannot claim as a right, to be appointed after acquiring the higher academic qualifications subsequent to the last date of submitting application pursuant to recruitment notice. Moreover, the petitioners were never placed in the select list prepared by the concerned authority. They were not even called for an interview.

5. In such circumstances, there is absolutely no ground to issue the writ as prayed for by the petitioners.

6. Keeping in view the aforesaid discussion, the writ petition is dismissed.”

ANALYSIS

7. A perusal of the record and affidavit filed on behalf of respondents No.3 and 4 shows that:-

Last date of submission of application form was 25.10.2011

1. Appellant no.1 completed graduation (BCA) in 2014

2. Appellant no.2 completed graduation (BA) in 2014



3. Appellant no.3 completed graduation (B.Com) in 2012, after the last date of submission of application form i.e. 25.10.2011.

Further, affidavit shows that the present appellants obtained the following marks:-

Sr. No.	Name of the candidate	Obtained Marks	Cut off Marks
1	Gurvinder Singh	24	26
2	Gurjant Singh	24	26
3	Gurjinder Singh	22	26

8. The issue before the learned Single Bench was that whether the candidates can claim as a right, to be appointed after acquiring the higher academic qualifications subsequent to the last date of submitting applications pursuant to recruitment notice. The issue is no longer *res integra*, having been definitively settled by the Hon’ble Supreme Court in judgment of ***Shankar K. Mandal and others Vs. State of Bihar and others, (2003) 9 SCC 519***. The relevant part of the judgment is reproduced as under:-

“ Pursuant to the directions contained in the earlier judgment of the High Court as affirmed by this Court, a fresh exercise was undertaken. Since the present appellants were not selected, writ petitions were filed before the High Court. In the writ petition which was filed by 55 persons and disposed of by the Division Bench the conclusions were essentially as follows:(1) Some of the writ petitioners (Writ petitioners Nos. 5, 18, 23, 28, 41 and 53) were over age at the time of their initial appointment and their cases were, therefore, wholly covered by the directions given by the High Court, and they were not entitled to relaxation of age;(2) So far as writ petitioners Nos. 6, 26, 30 and 55 are concerned, the stand was that they had not crossed the age limit at the time of making the applications for appointment and, therefore, were within the age limit at the time of initial appointment and were, therefore, entitled to



relaxation of age in terms of the judgment passed by the High Court earlier and affirmed by this Court. This plea was turned down on the ground that what was relevant for consideration related to the age at the time of initial appointment and not making of the application;(3) As regards writ petitioner No.24, he was under age at the time of appointment. He was permitted to file a representation before the Director of Primary Education and the High Court ordered that his case would be considered afresh;(4)In respect of writ petitioners Nos. 9 and 17, it was noted that they were refused absorption on the ground that they had not made any application in response to advertisement issued pursuant to the order passed by this Court. Since no material was placed to substantiate this stand and no reasons had been communicated for non-absorption, direction was given to consider representations if made by them within one month from the date of judgment. The said judgment is under challenge in C.A. No.916/1999. Appellants have taken the stand that in terms of this Court's judgment, a person who was not over age on the date of initial appointment was to be considered. Though it was conceded before the High Court that they were over age at the time of initial appointment, much would turn as to what is the date of initial appointment. The High Court had not considered as to what was the applicable rule so far as the eligibility regarding age is concerned. Learned counsel appearing for the respondent-State however submitted that having made a concession before the High Court that they were over age on the date of appointment, it is not open to the appellants to take a different stand. The crucial question is whether appellants were over age on the date of their initial appointment. It is true that there was concession before the High Court that they were over age on the date of initial appointment. But there was no concession that they were over age at the time of making the application. There was no definite material before the High Court as to what was the eligibility criteria so far as age is concerned. No definite material was placed before the High Court and also before this Court to give a definite finding on that aspect. What happens when a cut off date is fixed for fulfilling the prescribed qualification relating to age by a candidate for



appointment and the effect of any non-prescription has been considered by this Court in several cases. The principles culled out from the decisions of this Court (See Ashok Kumar Sharma and Ors. v. Chander Shekhar and Anr. (1997 (4) SCC 18, Bhupinderpal Singh v. State of Punjab (2000 (5) SCC 262 and Jasbir Rani and ors. v. State of Punjab and Anr. (2002 (1) SCC 124) are as follows:

(1) The cut off date by reference to which the eligibility requirement must be satisfied by the candidate seeking a public employment is the date appointed by the relevant service rules;

(2) If there is no cut off date appointed by the rules then such date shall be as appointed for the purpose in the advertisement calling for applications; and

(3) If there is no such date appointed then the eligibility criteria shall be applied by reference to the last date appointed by which the applications were to be received by the competent authority.

9. Further in the case of **Divya Vs. Union of India and others, (2024) 1 SCC 448**, Hon'ble the Supreme Court held as under:-

“51. It is also very well settled that if there are relevant rules which prescribe the date on which the eligibility should be possessed, those rules will prevail. In the absence of rules or any other date prescribed in the prospectus/advertisement for determining the eligibility, there is a judicial chorus holding that it would be the last date for submission of the application. (See Rekha Chaturvedi v. University of Rajasthan [1993 Supp (3) SCC 168]; Bhupinderpal Singh v. State of Punjab [(2000) 5 SCC 262]; Ashok Kumar Sonkar v. Union of India [(2007) 4 SCC 54].”

10. In view of the reply filed by respondents No.3 and 4 and judgment passed by the Hon'ble Supreme Court in **Shankar K. Mandal and others Vs. State of Bihar and others and Divya Vs. Union of India and others** (supra), we do not



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dated 20.01.2023. Therefore, the present appeal is dismissed.

11. All the pending application(s), if any, also stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

August 09 2024
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Whether speaking/reasoned: Yes
Whether reportable: Yes