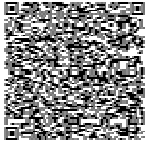


CWP-233-1999 and other  
connected matters 1

2024:PHHC:127058



IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

206 +207+208

CWP-233-1999  
Date of Decision : 25.09.2024

BALJINDER SINGH .... PETITIONER  
  
V/S

STATE OF PUNJAB AND ORS .... RESPONDENTS

CWP-240-1999

BIKRAMJIT SINGH .... PETITIONER  
  
V/S

THE STATE OF PUNJAB AND ORS .... RESPONDENTS

CWP-241-1999

DEVINDER SINGH .... PETITIONER  
  
V/S

STATE OF PUNJAB AND ORS .... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : None for the petitioner (s).  
  
Mr. Aman Dhir, DAG, Punjab.

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JAGMOHAN BANSAL, J. (Oral)

1. By this common order, CWP-233-1999, CWP-240-1999 and  
  
CWP-241-1999 are disposed of as issues involved and prayer sought in



all the petitions are common. For the sake of convenience and with the consent of parties, the facts are borrowed from CWP-233-1999.

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of appointment of respondents No.5 and 6 as Assistant Sub Inspectors. He is further seeking direction to official respondents to appoint them as Assistant Sub Inspector.

3. The 1<sup>st</sup> prayer of the petitioner has already been rejected vide order dated 11.01.1999 passed by this Court. The said order is reproduced as below:

*“The petitioner has prayed for quashing appointments of the non-official respondents as Assistant Sub Inspectors and also for issuance of a writ in the nature of mandamus directing the official respondents to appoint him as Assistant Sub Inspector.*

*In so far as the second prayer of the petitioner is concerned, the writ petition deserves to be dismissed in view of the dismissal of Civil Writ Petition No. 3919 of 1998 filed by him jointly with 12 others. In that case also the petitioners had prayed for issuance of a mandamus directing the respondents to appoint them as Assistant Sub Inspectors and after considering the various contentions urged on their behalf, the Court had rejected their plea. Therefore, it must be held that the petitioner's claim for issuance of a direction to the official respondents to appoint him as Assistant Sub Inspector is barred by res judicata.*



*However, the plea of the petitioner with regard to invalidation of the appointments of the non-official respondents merits further consideration in view of the order dated September 10, 1998 passed in C.W.P. No. 3919 of 1998.*

*The writ petition is admitted in so far as the challenge to the appointments of the non-official respondents is concerned.*

*A copy of this order be served on the official respondents as well as the private respondents along with the notices.”*

4. The petitioner is assailing appointment of private respondents who were appointed in 1993 i.e. more than three decades back. Both of them might have attained the age of superannuation or would be on the verge of superannuation.

5. Mr. Aman Dhir, DAG, Punjab confirms that appointment of private respondents was never set aside and they were never terminated by department.

6. A five Judge bench of Supreme Court in **Sivanandan C.T. and others vs. High Court of Kerala and others, 2023 SCC OnLine SC 994** though held that appointment of Judicial Officer by Kerala High Court was bad in law, however, did not disturb appointment on the ground that already appointed officers have already served for nearly six years and gained experience. It would deprive the State and its citizens of the benefit of experienced judicial officers. The relevant extracts of the judgment read as:

*60. The following are our conclusions in view of the above discussions:*

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*(i) The principles of good administration require that the decisions of public authorities must withstand the test of consistency, transparency, and predictability to avoid being termed as arbitrary and violative of Article 14;*

*(ii) An individual who claims a benefit or entitlement based on the doctrine of substantive legitimate expectation has to establish the following : (i) the legitimacy of the expectation; and that (ii) the denial of the legitimate expectation led to a violation of Article 14;*

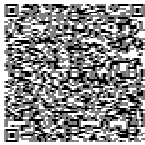
*(iii) A public authority must objectively demonstrate by placing relevant material before the court that its decision was in the public interest to frustrate a claim of legitimate expectation;*

*(iv) The decision of the High Court of Kerala to apply a minimum cut-off to the viva voce examination is contrary to Rule 2(c)(iii) of the 1961 Rules.*

*(v) The High Court's decision to apply the minimum cut off marks for the viva voce frustrates the substantive legitimate expectation of the petitioners. The decision is arbitrary and violative of Article 14.*

*(vi) In terms of relief, we hold that it would be contrary to public interest to direct the induction of the petitioners into the Higher Judicial Service after the lapse of more than six years. Candidates who have been selected nearly six years ago cannot be unseated. They were qualified and have been serving the district judiciary of the state. Unseating them at this stage would be contrary to public interest. To induct the petitioners would be to bring in new candidates in*

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*preference to those who are holding judicial office for a length of time. To deprive the state and its citizens of the benefit of these experienced judicial officers at a senior position would not be in public interest.”*

7. In the wake of above-cited judgment of Supreme Court and considering the fact that private respondents were appointed in 1993, this Court does not find it appropriate to set aside their selection.
8. In the backdrop, the instant petitions are hereby dismissed.

25.09.2024  
anju

(JAGMOHAN BANSAL)  
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No