



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

Date of Decision: 18.09.2024

CWP-4209 of 1999(O&M)

Bikramjit Singh Bhullar and others

....Petitioners

VS.

State of Punjab and others

....Respondents

CWP-7148 of 1999(O&M)

Amritpal Singh

....Petitioner

VS.

State of Punjab and others

....Respondents

CWP-11572 of 1999(O&M)

Bhupinder Singh

....Petitioner

VS.

State of Punjab and others

....Respondents

CWP-1180 of 2000(O&M)

Harpal Singh Chhina and another

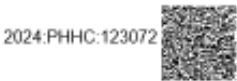
....Petitioners

VS.

State of Punjab and others

....Respondents

CWP-12478 of 1999(O&M)



Gurpreet Singh

....Petitioner

VS.

State of Punjab and others

....Respondents

CWP-14409 of 1999(O&M)

Gaurav Punj and another

....Petitioners

VS.

State of Punjab and others

....Respondents

CWP-15332 of 1999(O&M)

Harbinder Singh and another

....Petitioners

VS.

State of Punjab and others

....Respondents

CWP-6527 of 1999(O&M)

Gurbinder Singh

....Petitioner

VS.

State of Punjab and others

....Respondents

CWP-7045 of 1999(O&M)

Harmeet Singh Bedi

....Petitioner

VS.



State of Punjab and others

....Respondents

CWP-8634 of 2001(O&M)

Narinder Kumar

....Petitioner

VS.

State of Punjab and others

....Respondents

CWP-8178 of 2003(O&M)

Tejindjerjit Singh

....Petitioner

VS.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. D.S.Patwalia, Senior Advocate with
Mr. Armaan Dahiya, Advocate
for the petitioner in CWP- 4209 and 11572 of 1999

Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Arjun Pratap Atma Ram, Advocate and
Mr. Sandeep Kumar, Advocate
for the petitioners in CWP- 15332 of 1999

Mr. Ashish Gupta, Advocate for
Mr. V.K.Shukla, Advocate
for the petitioners in CWP Nos. 8178 of 2003 and
14409 of 1999

Ms. Manmohan Kaur, Advocate
for the petitioner in CWP- 7148 of 1999

Mr. Aman Dhir, DAG, Punjab

Mr. Dilraj Brar, Advocate
for respondent No. 40 in CWP- 4209 of 1999



Mr. Rajat Dogra, Advocate
for respondent No. 38 in CWP- 7148 of 1999
for respondent No. 42 in CWP- 4209 of 1999

Ms. Mallika Kapur, Advocate
for the respondent

JAGMOHAN BANSAL, J. (ORAL)

1. By this common order, CWP Nos. 4209 of 1999, 7148 of 1999, 11572 of 1999, 1180 of 2000, 12478 of 1999, 14409 of 1999, 15332 of 1999, 6527 of 1999, 7045 of 1999, 8634 of 2001 and 8178 of 2003 are hereby adjudicated as common questions of law and facts are involved.
2. The petitioners through instant petitions are seeking setting aside of selection and appointment of private respondents on the post of Assistant Sub Inspector of Police. They are further seeking their appointment on the said post.
3. The posts in question were advertised in March'1998. The written test was conducted in August'1998. Interview was conducted in October'1998 and thereafter successful candidates were appointed. The selected candidates joined in January'1999 and these petitions were filed in May'1999.
4. This Court on 14.01.2015 passed order as below wherein all the arguments of the petitioners were noticed:-

“The selection of ASIs has been challenged in this case on various grounds which according to the petitioners appear to vitiate the selection atleast of those who were appointed and whose antecedents and character verification would not have qualified them to be



appointed as ASIs. The other part, which according to Mr.Rajiv Atma Ram and Mr.D.S.Patwalia, learned senior counsel vitiates the selection is that the persons who were ineligible were selected. The third limb of the argument is that the selection stands vitiated on account of relaxation given to numerous candidates whose age, qualification and physical standards did not come up to the prescribed standards and at least 13 of whom had been identified by the petitioners, whose age and physical tests did not measure up to the prescribed standards. To make matters worse, the posts of ASIs were advertised without specifying the number of vacancies to be filled and consequentially, there was no condition in the advertisement that number of posts could be increased or decreased.

Mr. Rajiv Atma Ram, learned senior counsel submits that when the selection was made in 1989, Punjab Civil Services (General and Common Conditions of Service) Rules, 1994 were in operation and still are. Rule 19 of those rules confer power on the Government to relax rules and such power of relaxation, as was exercised in this case, could not have been so done by the Director General of Police, Punjab. It could only have been relaxed by the State Government by a decision in writing. This is also a departure from Statute which vitiates the selection of those who have been appointed in relaxation of rule and the terms and conditions of the advertisement.

It is pointed out that in the written statement, it is stated that originally, requisition of 100 posts had been received. Thereafter, a further requisition for 68 posts was received and, therefore, the appointments have been made beyond 100 but the total number of posts filled up are 138. In case, the decision was to fill up 168 posts, then persons beyond 138 also had to be considered and appointed and this is where the case of the petitioners may come in. Since these are matters which fall purely in the domain of facts, Mr.Sehgal prays for time to thoroughly acquaint himself with the facts from the original record of selection which may shed light on the submissions of the petitioners as recorded above.

On the request of Mr.Sehgal, the matter is adjourned to enable him to inspect the original record



and to keep it ready for the perusal of the Court at the time of final arguments.

Adjourned to 21.1.2015 for production of record.

It will be open to Mr. Sehgal to make a summary of facts for the assistance of the Court for which no affidavit etc. would be required to support the facts therein since this Court has implicit faith in what Mr. Sehgal would project to the Court in terms of facts whether they are in his favour or not.

On the adjourned date, the petitioners would have liberty to inspect the record after Court hours. This Court would then fix a date for final disposal by mutual consent of all the parties when all would be available to address the Court.

A copy of this order be placed on the record of each connected file.”

5. The selection in question was made in 1998-1999 and all the selected candidates joined in January’1999. They since then are working with respondent as police officials. They must have further been promoted.

6. Mr. Aman Dhir, DAG, Punjab during the course of hearing confirms that seven candidates out of private respondents were dismissed on account of infirmities detected later on.

7. 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 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:



(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 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.”



8. In the wake of above-cited judgment of Supreme Court and considering the fact that selection process was initiated in 1998 and private respondents were appointed in 1999 and they have joined their posts, this Court does not find it appropriate to set aside their selection. The petitioners are seeking post of Assistant Sub Inspector which requires physical and mental fitness. The petitioners, at this stage, must have attained age of 45-50 years, thus, they cannot be expected to be fit for the job. It is a public post and Court cannot ask authorities to compromise.

9. In the backdrop, the instant petitions are hereby dismissed.

10 Pending Misc. application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

18.09.2024
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	