



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

CWP No.7592 of 1997(O&M)

Date of Decision: 25.11.2024

Anil Kumar Bhanot

....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. J.S.Pannu, Advocate
for the petitioner (through VC)

Mr. Aman Dhir, DAG, Punjab

Mr. S.K.Garg, Narwana, Senior Advocate with
Mr. Vishal Garg Narwana, Advocate
Mr. Om Pal Potlia, Advocate
Mr. Mukul Ahuja, Advocate
for respondent No. 8

Mr. R.D.Bawa, Advocate
Mr. Samuel Gill, Advocate
Mr. Rishabh Rana, Advocate
for respondent No. 9

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of appointment of respondents No. 5 to 9 on the rank of Inspector and direction to respondents to consider him for the said post.

2. The petitioner joined Punjab Police as Assistant Sub-Inspector on 26.08.1992. He pursuant to an advertisement applied for the post of



Inspector. He on 06.09.1993 was declared successful alongwith other candidates in the general category. He claims that he was at Sr. No. 17 in the select list and authorities shifted him to Sr. No. 18. The State is claiming that he was at Sr. No. 1 in the waiting list. He could not be selected as Inspector because candidates in the select list joined and waiting list could not be operated. He preferred CWP No. 10358 of 1994 which was dismissed as withdrawn with liberty to file afresh.

3. Mr. J.S.Pannu, Advocate claims that respondents should consider the petitioner for the post of Inspector from the date other candidates joined. He, at present, is holding rank of Deputy Superintendent of Police. If he is appointed as Inspector from 1993, he would get further promotion as well as higher salary. Degree of respondent No. 8 is forged, thus, he was eligible for the post.

4. Mr. Aman Dhir, DAG, Punjab submits that as per opinion of the authorities, the degree of respondent No. 8 is genuine and it is not a forged document. The authorities conducted thorough investigation/enquiry wherein nothing incriminating against respondent No. 8 was found. The petitioner lodged FIR against respondent No. 8 at Patna wherein he was discharged by trial Court.

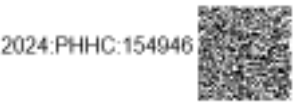
5. Concededly, the selection process commenced and completed in 1993. Respondents No. 5 to 9 were selected and are still in service. They are holding rank of Superintendent of Police or above. The private respondents have already been promoted to the higher ranks. The State has found nothing wrong in the selection or documents of selected candidates.



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:

- (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.”

7. In the wake of above-noted judgment of Supreme Court, this Court is of the considered opinion that instant petition deserves to be dismissed and accordingly dismissed.
8. Pending Misc. application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

25.11.2024
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	