

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(108) LPA-712-2023
Decided on : 19.03.2024

Sunil KumarAppellant(s)

Versus

State of Punjab & othersRespondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr.Ashok Kumar Khunger, Advocate for the appellant (s).

Mr.Saurav Khurana, Addl.A.G., Punjab.

G.S. Sandhawalia, Acting Chief Justice (Oral)

1. Consideration in the present appeal is to the judgment passed by the Learned Single Judge in CWP-19266-2021 decided along with the bunch of cases on 15.03.2023 whereby it was noticed that the writ petitioner had been called again for measurement of his height but he had refused to let himself get re-measured and also refused to participate in the selection process. Therefore, he was held not to be entitled to any relief.

2. Counsel for the appellant has vehemently submitted that another opportunity be given as the appellant has paid the costs for re-measurement.

3. We are not impressed with the said submission. The writ petition was filed seeking directions for issuance of appointment letter to the writ petitioner as Jail Warder as his actual height is 5' 9", as per the result of the physical measurement held for the recruitment process of year

2011-2012 (Annexure P-11), which he had received under Right to Information Act, 2005. It is not disputed that advertisement No.2 of 2011 (Annexure P-1) had been issued for filling up the posts of Jail Warders. The said process had been cancelled and eventually CWP-15409-2014 titled *Lachhman Singh & others Vs. State of Punjab & others*, had been filed for quashing the process of cancellation which was allowed on 17.12.2016 (Annexure P-4) and directions were issued that merit-list be prepared afresh considering the criteria as mentioned in the advertisement. The writ petitioner having secured 25.88 marks was declared as not qualified and had approached this Court in CWP-28401-2019 on the ground that his height had been shown as 5'.8.75'' when he was measured in the year 2017 and whereas on an earlier occasion, his height was shown as 5'.9.25''. He thus claimed that he should have been given 26.88 marks and had been denied a fair opportunity to be selected as a Jail Warder. The Learned Single Judge vide order dated 01.10.2019 in the said case had directed to get the petitioner's height re-measured by constituting an appropriate Committee and by directing that arrangements be made for videography while disposing off the case.

4. Apparently, at the time of re-measurement on 30.10.2019, there was a dispute regarding the methodology of re-measurement and since other candidates were also involved, there had been a request for measurement through a digital machine. The said exercise was fixed for 30.01.2020. At that stage also, the candidates including the petitioner had objected and insisted that height should be measured by constitution of an independent committee. It is in such circumstances, he had approached this Court on the ground that the said exercise was not done in consonance

5. In the written statement filed, specific plea had been taken that the selection process has already been completed and even the persons who had joined, completed the 2 years' period of probation. The petitioner had filed the writ petition 3 ½ years after completion of the recruitment process. It has also been mentioned that apart from the petitioner, 6 more candidates had been called for re-measurement and they had appeared on 30.10.2019 and 18.12.2019 and raised objections in relation to the manual scale and that they wanted to get their heights measured through digital machine and representation dated 30.10.2019 has also been appended as Annexure R-1/T. A perusal of the same would go on to show that there was a request made by Lakhwinder Singh, Muraj Singh, Sunil Kumar and Harprit Singh that the measurement be done through the electronic parameter machine and that they were ready to bear the expenditure to be incurred for re-measurement of height and asked for the next date.

6. The respondents thereafter took up the matter with the Timing India Private Limited Company, Hyderabad for re-measurement on 30.01.2020 on which date the petitioner refused to get his re-measurement done through the digital machine and the details have been mentioned in Annexure R-2/T wherein 7 candidates had gathered in the Police Lines, Ferozepur and the scale had been arranged for measurement on 30.01.2020 at 4 PM. A perusal of the said proceedings would go on to show that various objections had been taken that the measurement should be done in the morning and not in the evening. Resultantly, a speaking order was passed on 24.04.2020 by the respondents which eventually led to filing of the writ petition in 2021. It is in such circumstances, the

appellant himself had refused to get his height measured though specific directions had been issued in the earlier litigation and on the basis of the same, the appellant did not fall within the zone of consideration.

7. It is settled principle that selection process is not to go on forever and has to come to an end. As noticed, the advertisement is of the year 2011 and more than a decade has gone by. At this stage, we are not inclined to accept the argument of counsel for the appellant that re-measurement be done again because the appellant has already deposited the amount for the same. Apparently, a fresh recruitment process has already been completed in the year 2016 and 214 posts of Warders have been filled and therefore, the vacancies already stand consumed. The respondents had also taken the burden of hiring the equipments from as far as Hyderabad to get the candidates measured and who have shown their disinclination to the same. In such circumstances, we are of the considered opinion that the Learned Single Judge was justified in not exercising his extraordinary writ jurisdiction.

8. Resultantly, in view of the above discussion, finding no merit in the present appeal, the same is hereby dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

19.03.2024
Sailesh

Whether speaking/reasoned :	Yes	
Whether Reportable :		No