



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

**CWP No.17409 of 2012(O&M)
Date of Decision: 13.11.2024**

Harinder Singh

....Petitioner

VS.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. B.P.S.Virk, Advocate
for the petitioner

Mr. Aman Dhir, DAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of selection of respondent No. 3 on the post of Constable and further direction to official respondents to issue him appointment letter.

2. The petitioner is a Matriculate. He has participated in Free Style 96 Kg Wrestling competitions. The respondents in 2011 invited applications for recruitment of Constables. The advertised posts were meant for sports persons. There were 187 posts out of which 172 were meant for



male and 15 for female candidates. 13 posts were earmarked for Wrestling sports.

3. The petitioner pursuant to advertisement applied for the post under Free Style Wrestling category. As per selection process, the marks were awarded qua sports achievements, performance during trials and interview. He secured 23 marks and respondent No. 3 secured 38 marks. He was at Sr. No. 17 and respondent No. 3 was at Sr. No. 16. Respondent No. 3 secured substantially higher marks than petitioner, however, he was not having requisite height. In the advertisement, there was provision permitting the respondents to give relaxation with respect to height. The respondents declared selection list of nine candidates out of 13 advertised posts. Neither name of petitioner nor respondent No. 3 figured in the selection list. The official respondents granted height relaxation to respondent No. 3 and he came to be selected. The petitioner is feeling aggrieved from the selection of respondent No. 3.

4. Mr. B.P.S.Virk, Advocate submits that respondent No. 3 was not possessing requisite height, thus, he was disqualified for the post. The respondents have wrongly granted him height relaxation. The petitioner has secured lesser marks than respondent No. 3, however, was possessing requisite height, thus, he was eligible for the post.

5. Per contra, Mr. Aman Dhir, DAG, Punjab submits that there were 13 posts which were earmarked for Wrestling sport. The petitioner secured substantially lesser marks than respondent No. 3 which gave impetus to authorities to grant height relaxation to respondent No. 3. The



authorities were quite competent, as per advertisement, to grant height relaxation.

6. I have heard counsel for the parties and perused the record with their able assistance.

7. From the perusal of record, it is evident that advertisement in question was issued in 2011 and selection process completed in 2012. As confirmed by Mr. Aman Dhir, respondent No. 3 at present is working with Police Department as Assistant Sub-Inspector meaning thereby he has been granted two promotions i.e. Head Constable and Assistant Sub-Inspector. The petitioner is assailing appointment of respondent No. 3 on the ground that respondent No. 3 was ineligible on account of lesser height than the prescribed height.

8. From the perusal of advertisement, it is evident that authorities were competent to grant height relaxation. There is neither pleading nor argument to the effect that there was *mala fide* on the part of authorities in making the selection of respondent No. 3 by granting height relaxation or there was no provision to grant height relaxation. The authorities were competent to grant height relaxation and exercising vested power, they have granted height relaxation. The petitioner secured 23 marks whereas respondent No. 3 secured 38 marks which shows that respondent No. 3 was more meritorious than petitioner.

9. A five Judge bench of the 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.”

10. In the wake of above discussion and findings, this Court is of the considered opinion that instant petition deserves to be dismissed and accordingly dismissed.
11. The petitioner at last has pleaded that all the posts meant for Wrestling sports were not filled up, thus, he may be considered.
12. Mr. Aman Dhir, DAG, Punjab is disputing the factual position.
13. Be that as it may, the authorities are directed to consider claim of the petitioner, if any post meant for Wrestling sports, which was advertised in 2011, is still lying vacant.
14. Pending Misc. application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

13.11.2024
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	