



CWP-7494-2014 (O&M)

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

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**CWP-7494-2014 (O&M)
Date of Decision: 28.05.2024**

Sandeep Kamboj**...Petitioner**

Versus

Union of India and others**...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Amit Choudhary, Advocate and
Mr. Hritik Gupta, Advocate for the petitioner

Mr. Vishal Gupta, Senior Panel Counsel,
for Union of India-respondent Nos.1 to 4

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is setting aside of advertisement dated 17.12.2012 (Annexure P-1) and appointment of respondent No.5 to the post of Assistant Store Keeper.

2. The petitioner pursuant to the advertisement dated 17.12.2012 applied for the post of Assistant Store Keeper. The respondent conducted written test which was followed by interview and viva-voce. Respondent No.5 came to be selected. The petitioner claims that he was more meritorious, thus, he should have been selected.

3. Mr. Vishal Gupta, Advocate submits that respondent No.5 was appointed in 2013 and since then he is working with respondent-organization.



The petition needs to be dismissed in view of five Judge Bench judgment of Supreme Court in ***Sivanandan C.T. and Others v. High Court of Kerala and Others, 2023 SCC OnLine SC 994.***

4. Mr. Amit Choudhary, Advocate does not dispute the fact that respondent No.5 is working with respondent-organization since 2013, however, he submits that he approached this Court in 2014, thus, his claim should be adjudicated on merits.

5. A five Judge bench of Supreme Court in ***Sivanandan C.T. (Supra)*** though held that appointment of judicial officers 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 the 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 all 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.”

6. In the case in hand, the petitioner participated in the selection process which was initiated in 2012 and respondent No.5 was selected in 2013. He since then is working with respondent-organization without any hindrance.



7. In the wake of afore-cited judgment of Supreme Court in *Sivanandan C.T. (Supra)*, this Court does not find it appropriate to disturb appointment of respondent No.5 at this belated stage.
8. Dismissed.
9. Pending application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

28.05.2024
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>