

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

CWP-28640-2017
Date of Decision: 08.02.2024

Baljeet Singh ...Petitioner

VS

State of Punjab and others ...Respondents

CORAM : HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Anil Kumar Bhardwaj and
Mr.Kuldeep Sharma, Advocates for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

AMAN CHAUDHARY, J

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to complete the selection process for the post of Warders in the Punjab Prisons Department initiated vide Annexure P-1.
2. Learned counsel submits that the petitioner had participated in the selection process for the said post of Warders, initially in 2011 and in the said process, his height having been measured was found to be 5' 10 1/2", however, he could not be selected on account of the fact that the selection process was cancelled by the authorities, however vide order dated 17.12.2016, Annexure P-5, passed by this Court, the order of cancellation was quashed and the respondents were directed to continue the process and prepare a new merit list, in the basis of a fresh physical test. Thereafter, he again participated for the same post. As per the criteria, there was a physical measurement, physical efficiency test and interview. For the interview, marks were to be calculated based on the educational qualification, height

etc. When the height of the petitioner was measured, it was found to be 5' 9 1/2", therefore, he fell short of 1 mark and secured 25 marks, out of which, 13 were based on his educational qualification. The cut off being 26 marks. It is upon his representation that the height was re-measured by a Committee and found to be 5' 10 1/4", entitling him to 1 more mark. The sole reason for not granting him appointment as mentioned in the written statement as well as the affidavit dated 05.02.2020, was that the recruitment process stood completed.

3. Learned State counsel is unable to counter the aforesaid submissions, the same having been admitted in the affidavit dated 05.02.2020. He however, reiterated that no relief can be granted to the petitioner, since the selection process is over now.

4. Having heard learned counsel on either side, this Court finds considerable strength in the submissions as canvassed on behalf of the petitioner.

5. Incontrovertibly, the height of the petitioner as measured in the first selection process and thereafter in the resumed 2nd process, when got re-measured by the Committee, comprising of Superintendent of Police, Bathinda; Deputy Superintendent of Police, Bathinda, Medical Officer, Police Hospital, Police Line Bathinda and R.I. Police Line Bathinda constituted on 17.08.2017, was found to be 5'10¼", which as per the criteria laid out for the purpose of selection of Warder would fetch the petitioner 13 marks, besides the 13, on basis of the educational qualification, taking his total to 26, as was the cut off for his category.

6. For the State to contend that the selection process having now culminated, thus the petitioner has no right for consideration cannot be

countenanced. It was the selection process undertaken pursuant to the first advertisement issued in the year 2011, wherein the respondents themselves had measured the height of the petitioner as 5' 10 1/2". However in the subsequent process conducted pursuant to revival of the said advertisement, his height came to be recorded as 5' 9 1/2". The petitioner, so as to convince the authorities to get conducted a remeasurement of his height had, on his own, got it remeasured from the District Police Hospital, Police Lines, Bathinda, wherein it was found to be 5' 10 1/4", but the same was not accepted, having not sought approval thereof, as stated in the affidavit dated 05.02.2020 of the Deputy Superintendent of Police, HQ. Be that as it may, the aforesaid Committee got it remeasured, only to realise it to be 5 ' 10 1/4 ". As a sequitur, the respondents cannot take benefit of their own wrong and no one should be made to suffer due to the fault of the administration.

7. Upon the matter having been evaluated as above and as a fall out thereof, the present petition deserves to and is hereby allowed. The respondents are directed to consider and appoint the petitioner, if found to be falling in the merit, to the post of Warder, from the date the last candidate in the said selection process was appointed, within two months. He shall be entitled to all consequential benefits, except arrears of pay and allowances.

8. Disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

08.02.2024
Hemant

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No