



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-30211-2018 (O&M)

Date of decision: 08.05.2024

Manish Dayma

...Petitioner

VERSUS

Union of India and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Pranav Goel, Advocate for
Mr. Himanshu Raj, Advocate for the petitioner.

Mr. Satya Pal Jain, Addl. Solicitor General of India with
Mr. Sudhir Nar, Senior Panel Counsel,
for respondent-UOI.

VINOD S. BHARDWAJ, J. (Oral)

1. A writ in the nature of *quo warranto* and Certiorari has been filed challenging the authority whereby certain persons of few specified category were allowed to be recruited as the Presidential Bodyguards.

2. Reply dated 25.04.2019 had been filed on behalf of the respondent-UOI, copy thereof had been furnished to the learned counsel for the petitioner. In the reply, it has been specifically mentioned that the petition deserved to be dismissed since it is based on an assumption that the separate recruitment drive is carried out for appointment of President's Bodyguards whereas, the recruitment of President's Bodyguard is carried out as per the guidelines issued by the RtgDte IHQ (Recruitment Directorate, Integrated Headquarters) of Ministry of Defence and there is no

separate recruitment process for the same. The enrolment into the President's Bodyguard is as per the class composition and not by the caste composition of the regiment. The President's Bodyguard comprises of personnel of 14 States and the citizens from among 16 castes (including SC/ST) are serving and have already served as President's Bodyguards. It is stated that the enrolment of the soldiers in the Indian Army is governed by the provisions of the Army Rules, 1954 and that paragraphs 4 of the Defence Services Regulations lays down that the supreme command of the armed forces is vested in the President of India and the Chief Army Staff is responsible to the President through the Central Government for the command, discipline, recruitment, training, organization, administration and preparation for war of the army, but in paragraph 132 of the said Regulations it is prescribed that the Chief of the Army is vested with the entire executive control over the recruitment of all personnel included in the establishment of the Army.

3. The eligibility and in-eligibility is prescribed under Section 11 of the Army Act, 1950 and that the Act recognizes all citizens eligible to for enrolment or employment and no discrimination is made on the basis of caste, class, region, religion, sex etc. It was also stated in the said written statement that the petitioner has repeatedly mentioned castes, religion and region based recruitment in the recruitment of the Presidential Bodyguards, however, such factors are not recognized and that grouping of the President's Bodyguard is done on class/region basis and that even the regiments are named after certain classes/castes/regions as well. The President's Bodyguards is a small unit comprising of 150 troops which is

placed under the President's Secretariat. Notwithstanding the nomenclature, it is a purely ceremonial units tasked to perform ceremonies as per the protocol at Rashtrapati Bhawan. The ceremonies duties demand common height, built, appearance and dress for reason of pomp and projection which are important attributes while performing such duties. It is wrong to say that the other classes are not associated with the ceremonial duties at Rashtrapati Bhawan which also has one infantry battalion posted in rotation tenure of two to three years. It was also stated that there was no class based discrimination at the recruitment stage and each caste can join any regiment and that it is only after a rigorous selection, personnel are grouped based on functional requirements to have optimum operational effectiveness, the allocation of arm/service/regime is based on internal organizational structure on lessons to collective experience acquired.

4. It is also mentioned in the written statement that earlier also a specific plea has been raised challenging the recruitment process and the class composition of the Presidential Bodyguards vide **Writ Petition (Civil) No.524 of 2012** titled as '**Dr. I.S. Yadav Vs. Union of India**' which was dismissed by the Hon'ble Supreme Court vide its order dated 11.02.2014 followed by **Review Petition (Civil) No.809 of 2014** and **Curative Petition (Civil) No.241 of 2014** which were also dismissed by the **Hon'ble Supreme Court vide orders dated 16.04.2014 and 15.10.2014** respectively. A further assertion was made that the recruitment of the Presidential Bodyguards was also challenged in **Writ Petition (Civil) No.7790 of 2017** and **CM No.32148-49/2017** titled as '**Dr. Ishwar Singh Vs. Union of India**' which was also dismissed vide order dated **04.09.2017**.

5. Even though the said written statement had been filed in the year 2019, however, no replication/rejoinder controverting any of the facts or submissions made therein has been filed.

6. To the contrary, perusal of the order-sheet shows that notice in the present case was issued on 14.01.2019. The matter came up for hearing on 29.04.2019, however, there was no representation on behalf of the petitioner. Thereafter, when the matter was taken up on 16.07.2019, learned arguing counsel for both the parties were in personal difficulty. Hearing was thus adjourned. On 26.02.2020, the matter was adjourned on the request of learned counsel for the petitioner and the matter was adjourned to 14.05.2020. Due to Covid-19, the matter could not be taken up. The matter was then listed for hearing on 02.09.2022, however, there was no representation on behalf of the petitioner and the matter was adjourned for 01.12.2022. On the said date, the matter was adjourned on the joint request of the learned counsel for the parties and the matter was adjourned for 22.03.2023. On the said date, some more time was sought by the learned counsel for the petitioner to advance arguments and the matter was adjourned to 16.08.2023 and when on the said date none appeared on the behalf of the petitioner, the matter was adjourned to 17.01.2024. On the said date also, a request of an adjournment was circulated on behalf of the learned counsel for the petitioner and the matter was adjourned for today. I find that no reasons arise for adjourning the case any further. For the reasons set out in the reply, denying the allegations levelled and averring that there is no discrimination made out to any category and that an integrated recruitment process affording opportunities to all persons is

provided and that similar controversy has already been settled upto the Hon'ble Supreme Court by dismissal of Writ Petition (Civil) followed by Review Petition (Civil) and Curative Petition (Civil) as well and thus the present petition deserves to be dismissed.

7. At this stage, learned counsel for the petitioner contends that he could not file any replication/rejoinder since he was in the process of securing certain documents under the Right to Information Act, 2005 and that he may be granted permission to withdraw the present petition with liberty to file a fresh petition, if so advised, with complete and better particulars.

8. Learned counsel for the respondents has no objection to the same.

9. Disposed of as withdrawn with liberty aforesaid.

(VINOD S. BHARDWAJ)
JUDGE

08.05.2024

Mangal Singh

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