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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-28262-2024
Date of Decision:21.10.2024

PARDEEP SINGH Petitioner

Versus

STATE OF PUNJAB AND ANR Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. H.P.S. Bhinder, 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 communication dated 14.03.2024 (Annexure P-9) and order dated 18.03.2018 (Annexure P-12) whereby respondent has rejected his claim for the post of Constable.
2. The petitioner pursuant to advertisement dated 31.05.2016 (Annexure P-1) applied for the post of Constable. He was selected, however, during verification of documents, it was found that his date of birth recorded in matriculation certificate is 10.02.1998 whereas he has disclosed in other documents as 10.02.1997.
3. On being pointed out aforesaid fact by authorities, the petitioner approached Punjab School Education Board (for short 'Board') to carry out necessary correction in the certificate. The Board corrected certificate in 2018. He approached authorities seeking appointment,



however, respondent vide order dated 18.03.2018 (Annexure P-12) rejected his claim on the ground that as per matriculation certificate, he was less than 18 years on 01.01.2016.

4. The aforesaid selection invited a glut of litigation. A number of candidates approached this Court pointing out one or another deficiency. The matter was finally settled by judgment dated 05.07.2021 passed in CWP No.22985 of 2016. The said petition was disposed of with following directions:

“39. To sum up in the end, hereinbelow are the succinct conclusions drawn and directions of the Court in the instant judgment:-

*i). The criteria of selection as per the original advertisement read with the standing order, is upheld and the petitioners’ challenge thereto is rejected. Dispensing with the interviews for the post of Constable being Group-C which is in tune with the guidelines issued by the Government of India and the policy decision of the State Government dispensing with the interview is also upheld. ii). The grievance of the petitioners qua measurement of height would be mitigated by the State by carrying out one time re-measurement of their height in terms of judgment rendered by this Court in **Sonu Singh’s** case, *ibid*. It is so ordered accordingly.*

iii) All the petitioners be notified of the date, time and venue for remeasurement of height through email/ text message as well on the website of the department. Those who opt for remeasurement, the exercise for their remeasurement of height and the resultant changes concerning the concerned petitioners in selection shall be completed within the next one month.

iv) If any of the concerned aggrieved petitioners is/are selected, he/they be issued letters of appointment within the next two months. Candidates



who have already undergone remeasurement test during pendency of proceedings would be given benefit thereof, if any, in accordance with remeasured height.

v). If upon re-measurement of height, any petitioner comes above the previously selected candidate in the respective category viz. General or otherwise, in that event the already selected candidate on the bottom of list in the said category shall have to make way for him, in case there is no vacancy available. Needless to say that in case vacancies still exists, then the newly selected candidate shall be accommodated in accordance with his merit.

*vi) A writ of mandamus is issued to the State of Punjab that henceforth it shall ensure that the guidelines, contained in **Sonu Singh's** case, ibid are made mandatory in every recruitment to be carried out in Punjab Police and other departments where height is one of the criteria for selection.*

vii) All other cases wherein additional issues, other than the challenge to criteria as per advertisement read with standing order and measurement of height, are being detagged vide a separate order to be reheard on their individual merits, only to the extent the issues raised therein have not been dealt with in this judgment.”

5. The aforesaid judgment of Single Judge came to be challenged before this Court by way of Intra Court Appeal. LPA No.961 of 2021 came to be dismissed by a Division Bench of this Court vide order dated 16.05.2022. The order dated 16.05.2022 passed by Division Bench reads as:

“Regarding the grouse of some of the candidates who had been initially declared successful but on account of the directions of remeasurement being passed vide interim orders, have now been moved out of the zone of consideration. The relief is not liable to be granted to them since on the very first date i.e. 06.12.2016, the order had



been passed that selection and appointment of Constables shall be subject to the decision of the writ petition. The said order reads as under:

“Ms. Sudeepti Sharma, DAG, Punjab has put in appearance on behalf of the respondents/State and prays for time to file reply. Service is complete. Adjourned to 22.03.2017. In the meanwhile, the selection and appointment of the Constables against advertised posts vide Advt. No. 01/2016, dated 31.05.2016, shall be subject to the decision of the writ petition.”

Thus, for the said persons who are appointed were well aware of the pendency of the writ petition and now cannot turn around and say that they were not heard at the time of the writ petition. The writ petitions remained pending before the learned Single Judge and various interim orders were passed and eventually it was only decided on 05.07.2021 and they had ample opportunity to join the proceedings but chose not to do so. Thus they cannot now turn around and say that any order has been passed on their back.”

6. The respondent-State challenged aforesaid order of Division Bench before Supreme Court by way of SLP No.27011 of 2022 which stands dismissed. The respondent prepared final merit list on 18.05.2022. At the time of preparation of said list, objections were invited from aggrieved candidates. The petitioner was never aggrieved from selection process because he had already been selected, thus, there was no reason for him to participate in the litigation pending before this Court.

7. Mr. H.P.S. Bhinder, Advocate submits that there was no lapse on his part. It was a mistake on the part of Board and he succeeded in getting it corrected in 2018. The respondent without considering correction slip issued by Board passed impugned order in 2018. The order dated 14.03.2024 passed by respondent is also bad in the eye of



law. The respondent has wrongly rejected claim of the petitioner.

8. Mr. Aman Dhir, DAG, Punjab who on advance notice is present in Court, submits that petitioner was duty bound to submit correct documents especially matriculation certificate which was disclosing his date of birth. As per matriculation certificate, he was less than 18 years on 01.01.2016, thus, he could not be considered for the post of Constable. The recruitment agency cannot wait for correction of documents. He was supposed to get his documents corrected prior to filing of application or at-least prior to scrutiny of documents.

9. I have heard arguments of learned counsel for both sides and perused the record with their able assistance.

10. From the perusal of record, it comes out that petitioner was selected in 2016 and he was assigned District Pathankot. On scrutiny of documents, it was found that as per matriculation certificate, he was not 18 years old on 01.01.2016 i.e. cut off date prescribed in the advertisement. There was mistake in the matriculation certificate. The petitioner filled up correct date of birth in the application form, however, he did not check date of birth disclosed in the matriculation certificate. He was duty bound to get his date of birth corrected at-least before scrutiny of documents. He succeeded in getting his date of birth corrected in 2018 and thereafter requested respondent to permit him to join. There is letter Annexure P-4 on record disclosing that petitioner requested respondent to permit him to join but no date on the said letter is jotted down. The respondent prepared final merit list in 2022. The said list was prepared pursuant to judgment dated 05.07.2021 passed by this Court. The petitioner had no concern with the litigation because he had already



been selected, thus, there was no reason for him to wait till 2022. Litigation of other unsuccessful candidates did not detain him from approaching authorities. He was not supposed to wait for the outcome of others. As soon as, he obtained correction slip from Board, he was supposed to avail remedies as permissible by law. His claim was rejected in 2018 and he remained silent for more than 5 years and woke up from slumber in 2024 and filed CWP No.713 of 2024 before this Court which was disposed of with a direction to respondents to consider his claim. The respondent by impugned communication dated 14.03.2024 has clarified that claim of the petitioner was rejected on 18.03.2018 and he did not avail any remedy against said order. It is a case of Government job which is scarce in India. It is highly improbable to believe that petitioner was keenly following authorities for his cause. It appears that due to reasons known to him, he opted to remain silent from 2018 to 2024 and at this belated stage is attempting rekindle a dead claim.

11. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

21.10.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>