



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

114

CWP-1112-2025

Date of Decision: 17.01.2025

Jagdish Kumar

.....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. R.K. Malik, Sr. Advocate,
with Mr. Sandeep Dhull, Advocate,
for the petitioner.

Mr. Raman Sharma, Addl. A.G., Haryana.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of order dated 17.10.2018 (Annexure P-13) whereby his claim to redetermine merit has been rejected.

2. The petitioner secured Bachelor's degree on 31.12.1997 and completed Post Graduation Diploma on 30.06.2001. His service was regularized on 09.06.2003. The respondent advertised post of Sub Divisional Engineer. He participated in the selection process. The petitioner as well as respondent Nos.4 and 5 came to be selected. He filed representation on 01.07.2008 claiming that respondent has wrongly determined *inter se* seniority. The private respondents have been wrongly granted higher marks with respect to Post Graduation and experience. The representation came to be rejected. He

filed appeal against rejection order. He preferred ***CWP-18343-2017*** before this



Court seeking direction to decide his appeal. This Court vide order dated 20.09.2017, disposed of the said writ petition. The order dated 20.09.2017 is reproduced as below:-

“By this petition, the petitioner is seeking a decision by the competent authority amongst the respondents, on his legal notice dated 31.1.2017 (Annexure P-8), and the appeal filed by him before respondent no.1 in the year 2012, in connection with which he is stated to have received various communications from respondent no.2, copies of which are stated to be annexed as Annexure P-6 collectively with the petition.

Without making any comment whatsoever on the merits of the case, this petition is disposed of with a direction to respondent no.1 to decide the aforesaid appeal of the petitioner (if not already decided), by passing a speaking order within a period of 3 months from the date of receipt of a certified copy of this order.

Obviously, respondent no.1 would take into consideration any vested rights that may now rest in any candidates already appointed pursuant to the selection process held, with regard to the post in question, and the fact that the petitioner has approached this Court 11 years after the selection process was held.”

3. The respondent pursuant to aforesaid direction of this Court passed impugned order. The operative portion of impugned order reads as under:-

“3. There is no scope for consideration of claim for possessing Post-Graduate Diploma In Construction Management from NICMAR, Pune through Distance Education, as a higher qualification by the petitioner and no marks can now be awarded on account of the same. The order dated 02.08.2013, passed by the then Principal Secretary to Govt. Haryana, Town & Country Planning



Department, is thereby upheld. Only the Selection Committee was competent to do the same and the selection list alongwith the Inter se merit of the selected candidates cannot be amended or modified as there is no such provision in HSVP rules or regulations pertaining to the subject.

Hence, the representation, dated 31.01.2017, of the petitioner is liable to be rejected and is hereby rejected. The same may be conveyed to the petitioner.”

4. The petitioner again preferred **CWP-37839-2018** before this Court, which was withdrawn on 09.07.2024 with liberty to file afresh with better particulars.

5. Mr. R.K. Malik, Sr. Advocate appearing for the petitioner submits that this Court vide order dated 09.07.2024 permitted to withdraw the writ petition with liberty to file afresh with better particulars. The petitioner has come to know that respondent No.5 obtained M.Tech Degree after last date for filing application and he was not holding experience in the requisite field still was granted 5 marks.

6. I have heard the arguments and perused the record.

7. This Court disposed of CWP-18343-2017 by order dated 20.09.2017. In the last paragraph, it was specifically observed that respondent No.1 would take into consideration any vested right that may now rest in any candidate already appointed pursuant to the selection process and petitioner has approached this Court 11 years after the selection process. The private respondents have already been further promoted. Even petitioner has also been further promoted. Respondent Nos.4 and 5 at present are holding post of Chief Engineer. They were appointed Sub Divisional Engineer in 2005. The



available as much as in 2005. There is no new information which petitioner has gathered after disposal of CWP-18343-2017 or CWP-37839-2018.

8. A five Judge bench of 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 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.”*

9. Considering the observations of this Court in **CWP-18343-2017**, withdrawal of **CWP-37839-2018** on 09.07.2024 and judgment of Supreme Court in **Sivanandan C.T. Case (supra)**, I do not find it appropriate to disturb seniority of private respondents or ask the official respondents to reconsider claim of petitioner vis-a-vis private respondents.

10. Dismissed.

17.01.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	Yes