



202

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-8304-2001 (O&amp;M)

Date of Decision: 17.07.2025

BIRMATI AND ORS.

..... Petitioners

*Versus*

STATE OF HARYANA AND ORS.

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Sunil Kumar Bhardwaj, Advocate  
for petitioners No.3 and 4.

Ms. Palika Monga, DAG, Haryana.

\*\*\*\*

**JAGMOHAN BANSAL, J. (Oral)**

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India are quashing of recruitment of male and female Constables. They are further seeking their appointment letter.

2. Mr. Sunil Kumar Bhardwaj, Advocate has put in appearance on behalf of petitioners No.3 & 4 and filed his Power of Attorney. The same is taken on record. Registry is directed to tag the same at an appropriate place.

3. In the instant case, the respondent issued advertisement on 12.05.2001. The petitioners are assailing appointment made pursuant to advertisement dated 18.05.2001. A period of 25 years has passed away.

4. 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 of 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.”*

5. In the case in hand, the applicants in the advertisement already stand selected. A period of 25 years from the joining has passed away. They must have gained rich experience. Rejection of their selection, at this stage, would neither be in the interest of public nor official respondent. The aforecited judgment of Supreme Court is squarely applicable in the instant matter.

6. In the wake of above discussion and findings, the instant petition deserves to be dismissed and accordingly hereby dismissed.

7. Pending Misc. application(s), if any, shall also stand disposed of.

( JAGMOHAN BANSAL )  
JUDGE

17.07.2025  
*Ali*

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |