



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

**CWP No.10545-2000(O&M)
Date of Decision: 04.04.2025**

Karan Singh

....Petitioner

VS.

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. R.S.Longia, Advocate
for the petitioner

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

Mr. Jasmeet Singh Bedi, Advocate
for respondents No. 2 and 3

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of selection of private respondents and direction to respondents to appoint him on the post of Swimmer-cum-Diver.

2. The petitioner was appointed as Swimmer-cum-Watchman on 12.09.1987. His appointment was not a regular appointment and he came to be terminated on 01.06.1989. The respondent issued an advertisement dated 05.05.2000 inviting applications for the post of Swimmer-cum-Diver. He participated in the selection process, however, could not be selected.



3. Mr. R.S.Longia, Advocate submits that as per Section 25H of the Industrial Disputes Act, 1947 (in short “ID Act”), the respondent was bound to give him preference because he was retrenched under Section 25F of the ID Act.

4. Mr. Jasmeet Singh Bedi, Advocate submits that petitioner participated in the selection process and he could not be selected. He cannot challenge selection process after participating and being declared unsuccessful.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. From the perusal of record, it is evident that selection process was initiated and completed in 2000. The private respondents joined service. One of the selected candidate has passed away and as stated by Mr. Jasmeet Singh Bedi, Advocate, others are likely to retire.

7. 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.”

8. The private respondents joined service in 2000 and a period of 25 years has passed away. In view of aforesaid judgment, there seems no reason to disturb their appointment.



9. The petitioner participated in the selection process and it is settled proposition of law that a candidate after participating in the selection process cannot challenge advertisement or selection itself. He is claiming preference in terms of Section 25H of the ID Act. The respondent had invited applications by way of advertisement and proper procedure was followed. The petitioner cannot claim preference over meritorious candidates. There is nothing on record disclosing that unfair or unreasonable means have been adopted or there was bias on the part of selection committee.

10. A two Judge Bench of Apex Court in **Tajvir Singh Sodhi and Others v. State of Jammu and Kashmir and Others 2023 SCC OnLine SC 344** has held that candidates, having taken part in the selection process without any demur or protest, cannot challenge the same after having been declared unsuccessful. The candidates cannot approbate and reprobate at the same time. A candidate cannot allege that selection process was unfair or there was some lacuna in the process just because selection process was not palatable to a candidate.

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

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

(JAGMOHAN BANSAL)
JUDGE

04.04.2025
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:		No