



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

**CWP-12093-2017 (O&M)
Date of Decision: 30.07.2025**

Sukhwinder Singh and Others

....Petitioners

Versus

State of Punjab and Others

....Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Ranjit Singh Kalra, Advocate,
Mr. Rajat Khanna, Advocate and
Ms. Mona Yadav, Advocate
for the petitioners.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of order dated 31.12.2016 whereby they have been discharged.

2. The instant petition has been filed by 39 persons. They are assailing order dated 31.12.2016 whereby they have been discharged from the post of Intelligence Assistant (Constable).

3. The State Government vide notification dated 10.08.2015 framed Punjab Intelligence Cadre (Group 'C') Service Rules, 2015 (hereinafter referred to as '2015 Rules'). The said Rules were framed in exercise of power conferred by proviso to Article 309 of Constitution of India read with Section 80 of Punjab Police Act, 2007. Rule 6 of 2015

Rules provides for method of appointment, qualification and experience.

For the ready reference, the said Rule is reproduced as below:

“6. Method of appointment, qualifications and experience.- (1) Appointment to the Service shall be made in the manner as specified in Appendix 'B':

Provided that if no suitable candidate is available for appointment to the Service by promotion or by direct appointment, then appointment to Service shall be made by deputation or absorption of a person holding a similar or an identical post under the State Government or the Government of India.

Provided further that a person to be absorbed in the Service shall give consent for the same and shall have to be found suitable by the Scrutiny Committee.

(2) Any official on deputation in Intelligence Wing can be repatriated to his parent department at any time without any prior notice, if his work and conduct is not found satisfactory.

(3) No person shall be appointed to a post in the Service, unless he possesses the qualifications and experience as specified against that post in Appendix 'B'. ”

4. The instant case relates to post of Constable, thus, qualifications of Constable recorded in Appendix B are reproduced as below:

“Appendix ‘B’
(See rule-6)

Serial No.	Designation of the post	Percentage for appointment by		Method of appointment, experience and qualifications for appointment by	
		Direct Appointment	Promotion	Direct Appointment	Promotion
			Seniority-cum-merit		Seniority-cum-merit
		XXXX	XXXX	XXXX	XXXX
4.	Constable	Hundred per cent	-	(a) Should be graduate from a recognized university or institution; (b) Should possess a Computer Information Technology course	

				<i>Equivalent to 'O' level Certificate of Department of Electronics Accreditation Computer Course (DOEACC) of Government of India; (c) Selection shall be made by the Board through a process which includes physical measurement, physical efficiency test, written test and interview."</i>	
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5. The petitioners came to be selected as Intelligence Assistant (Constable). They were issued appointment letter. The petitioners have placed on record appointment letters of different petitioners. In the appointment letter dated 22.12.2016, it was mentioned that appointment is for the post of Intelligence Assistant (Constable) in Punjab Police Intelligence Cadre. In the terms and conditions, it was jotted down that Punjab Police Rules, CSR, other conditions/instructions/rules/standing orders would be applicable. The respondent by impugned order discharged the petitioners.

6. Mr. Rajiv Atma Ram, Senior Advocate submits that petitioners have been discharged in terms of Rule 12.21 of Punjab Police Rules, 1934 (hereinafter referred to as 'PPR'). The said Rule could not be invoked in the case of petitioners because said Rule is applicable where it is found that officer is inefficient and there is no likelihood that he would prove an efficient Police Officer. The pre-requisites of Rule 12.21 of PPR have not been recorded in the impugned orders. The orders are passed mechanically, thus, deserve to be set aside. The respondent in the reply has pleaded that 2015 Rules were amended and amendments came into

force w.e.f. 26.04.2017. The case of petitioners could not be examined in the light of amended rules. The respondent constituted Board after appointment of petitioners as per 2015 Rules. There was no lapse on the part of petitioners with respect to constitution of Board. The petitioners were selected on the basis of their performance. They were not appointed as Constables whereas they were appointed as Intelligence Assistants (Constable), thus, it was a special case which was not governed by Rule 6 of 2015 Rules.

7. *Per contra*, Mr. Aman Dhir, DAG, Punjab submits that impugned orders were not passed exercising power conferred by Rule 12.21 of PPR, thus, it is factually incorrect that petitioners were discharged in exercise of power conferred by Rule 12.21 of PPR. The ADGP, Intelligence in its communication dated 22.09.2016 observed that there is need of Special Intelligence Officers. The DGP in its communication dated 22.09.2016 proposed few amendments in 2015 Rules so that appointments may be made. The matter was put up before Council of Ministers which approved the proposals. The amendments came into force w.e.f. 26.04.2017 whereas appointment of petitioners came to be made during December' 2016. The petitioners were discharged within 4-5 days from the date of their joining.

8. On being pointed out, Mr. Aman Dhir, DAG, Punjab submits that there were three Constables who on account of lapse on the part of Higher Officers worked despite their discharge orders. Action has already been taken against guilty Officers. In any case, these three persons worked for less than one month.

9. I have heard learned counsel for the parties and perused the

record with their able assistance.

10. From the perusal of record and arguments of both sides, it comes out that petitioners were appointed during December' 2016. They worked for 04 days and came to be discharged. The petitioners are claiming that they have been wrongly discharged. Rule 12.21 of PPR is inapplicable to them still they have been discharged. The amended Rules were inapplicable to them and as per unamended rules, the appointment could be made by DGP. Their appointment was made DGP, thus, it was legal and valid in the eye of law.

11. From the appointment letters as well as pleadings, it is evident that petitioners were appointed without any advertisement, written test and interview. Their appointment was made on the basis of recommendation of jurisdictional Senior Superintendent of Police. The petitioners are claiming that amended Rules are inapplicable to them. The State is also claiming that amended Rules are inapplicable to them. Resultantly, the appointments had to be made according to unamended Rules. It is only Rule 6 which provides for method of appointment, qualification and experience. The petitioners were appointed as Intelligence Assistant (Constable). For all intents and purposes, they were Constables because 2015 Rules contemplate four posts i.e. Sub-Inspector, ASI, Head Constable and Constable. If the petitioners were not Constables, their appointment was unknown to law because in the absence of Rules, no appointment could be made. It is not a private post whereas it was a public post.

12. Adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of

our Constitution, a court would certainly be disabled from passing an order upholding violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. No appointment can be made without following the procedure as contemplated by Article 16 read with 309 of Constitution of India. An appointment which is made contrary to prescribed rules and regulations is void and violative of Articles 14 and 16 of Constitution of India.

In the case in hand, the appointments were made without complying with requirements of Rule 6 of 2015 Rules. Every Constable was required to possess 'O' Level Certificate of Information Technology from National Institute of Electronics and Information Technology (NIELT) (earlier called as DOEACC). The appointment could be made by the Board. There was no Board in existence in 2016 still appointments were made. The appointments were made contrary to Rules, thus, were bound to be declared invalid. Good sense prevailed over authorities and they discharged all the petitioners. It means that the entire prescribed process was thrown to winds. In the absence of Board, some authority could make appointment, however, was required to conduct physical measurement, physical efficiency test, written test and interview as contemplated by Appendix-B of 2015 Rules. No such procedure was followed. This Court does not find any infirmity in the impugned order whereby petitioners have been discharged.

The respondent by issuing and thereafter withdrawing

appointment letters made mockery of law.

13. The petition is hereby dismissed, however, with costs of Rs.25,000/- upon respondents for their act and conduct. The Costs shall be paid to P.G.I.M.E.R. Poor Patient Fund within four weeks from today.
14. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

30.07.2025
Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No