



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

**CWP-23652-2012 (O&M)
Date of Decision: 06.08.2025**

Balwinder Singh

...Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Anil Kumar Saini, 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 direction to regularize him on the post of Constable.

2. The petitioner joined Punjab Police as Special Police Officer (SPO) on 02.03.1992. He met with an accident on 13.03.1998 while was on duty. DDR No.19 dated 15.03.1998 was registered in this regard at Sarabha Nagar, Ludhiana. The respondent during 2000, 2001 and 2004 allotted Constabulary Number to different SPOs after extending relaxation in height, chest and qualifications. The respondent, as per directions of this Court issued in multiple petitions. conducted physical efficiency test to find out suitable SPOs for the post of Constable. On 09.08.2004, the result of SPOs found suitable for the post of Constable was declared. The name of petitioner did not figure in the list of selected

candidates. The claim of petitioner was rejected on the ground that he is suffering from physical disability and was unable to clear suitability test.

3. Mr. Anil Kumar Saini, Advocate submits that there was another SPO namely Narinder Pal whose one leg was amputated in an operation. Despite loss of one leg, Narinder Pal was assigned Constabulary Number. It was impossible for him to clear suitability test still he was granted relaxation and assigned Constabulary Number. The petitioner was suffering from physical disability and was entitled to protection granted by Section 47 of The Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 (hereinafter referred to as '1995 Act'). The respondent in its reply dated 01.03.2016 filed in **CWP No.2722 of 2012** has admitted grant of benefit of Constabulary Number to SPO Narinder Pal.

4. *Per contra*, Mr. Aman Dhir, DAG, Punjab submits that as per directions of this Court, a Committee of Officers was constituted to find out reason of granting Constabulary Number to Narinder Pal despite being unfit for training. The Committee in its report found that Narinder Pal had not suffered injury while participating in Anti Terrorists Operation whereas he had suffered injury on account of misfire by his own gun. He has already passed away, thus, his statement could not be recorded, however, it is clear that benefit was wrongly extended to SPO Narinder Pal.

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

6. The best case of petitioner is that Narinder Pal was granted Constabulary Number despite the fact that he had not suffered injury

while fighting with terrorists. He had suffered injury while on duty but it was not on account of encounter with terrorists. Paragraph 6 of additional affidavit of Ashish Choudhary, IPS, DAG, Admin, Punjab reads as:

“That it is further respectfully submitted that as regards case of SPO Narinderpal No. 279/Batala. (mentioned at Sr. No.4 above) is concerned he was found suitable for the post of Constable in the year 2004 with the reduced standard of suitability test along with 1408 other SPOs. His height was 5'5", chest measurement as 34"x35", education 10th pass. Accordingly, he was allocated Constabulary number 1-IRB/202 (now 1-IRB/312) on 17.5.2010. Constable Narinder Pal No. 1-IRB/202 was deputed for Basic Training Course on 31.7.2010 in Batch No. 155. He intimated to the office that in the year 1992 while he was on duty as SPO his left leg was injured and the same was amputated in an operation. Therefore he cannot get basis training i.e. Outdoor training with his batch mates. Keeping in view the position, he was repatriated to his parent unit and he was directed to get permission for the exemption of Outdoor Training from the senior Officers. The Commandant 15t India Reserve Battalion, Patiala issued him a show cause notice that he was unfit for the post of Constable and he had concealed his Medical unfitness and got job of a Constable. Constable Narinder Pal No. 1-IRB-202 was dismissed from service vide order No. 22910-29/Sena Clerk dated 22.9.2011 being Medically unfit. However, order No. 22910-29/Sena Clerk dated 22.9.2011 passed by the Commandant Ist India Reserve Battalion, Patiala was reviewed by the DGP office in the light of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and Constable Narinder Pal No. 1/202-IRB was reinstated in service vide Memo No. 1815/E-III (4) dated 17.2.2012. It is respectfully submitted that case of

Constable Narinder Pal No. 1/202-IRB is different than other Constables.

7. The respondent has conceded that benefit of Constabulary Number was wrongly extended to Narinder Pal. The petitioner cannot claim benefit on the sole ground that some benefit was wrongly granted to another person. There cannot be negative equality. If respondent by mistake or connivance has wrongly granted benefit to one or more SPOs, it does not mean that Court should legalize the mistake and extend same benefit to the petitioner. Court cannot order to perpetuate the mistake. Neither PPR nor any standing order provides that an SPO should be appointed as Constable despite he being physically unfit. It is not a clerical post. Fitness is of paramount consideration.

8. The petitioner is further relying upon Section 47 of 1995 Act which reads as:

“47. Non-discrimination in Government employment .-(1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(2) No promotion shall be denied to a person merely on the ground of his disability:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such

conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.”

From the reading of above quoted Section, it is evident that no establishment can dispense with or reduce in rank an employee who acquires disability during his service. He cannot be further denied promotion.

In the case in hand, the petitioner was SPO at the time of disability. Post of SPO is a temporary post and post of Constable is not a promotional post. The petitioner on account of his disability could not be appointed as Constable. He as per Section 47 of 1995 Act could claim continuity of service. The petitioner as well as respondent are *in tandem* that there is no more engagement of SPO(s) and they have been shifted to Home Guard. The petitioner is entitled to position of member of Home Guard, however, cannot claim post of Constable.

9. In the wake of above discussion and findings, the petition deserves to be dismissed to the extent of claim of petitioner to the post of Constable, however, he can continue to work as member of Punjab Home Guard.

10. Ordered accordingly.

(JAGMOHAN BANSAL)
JUDGE

06.08.2025
Prince Chawla

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