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

234

CWP-16999-2017 (O&M)
Date of decision: 13.01.2025

Roshan Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Beant Singh Seemar, Advocate for the petitioner.
Mr. Swapan Shorey, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition for directing the respondents to consider the selection of the petitioner for the post of Warden based on merit, as outlined in Annexure P 9.
2. Pursuant to Advertisement No. 2 of 2011 dated 12.10.2011, the petitioner applied for the position of Warden, successfully cleared the physical test and examination conducted on 26.04.2012 but was not called for an interview. The recruitment process was subsequently invalidated citing administrative reasons, as apparent from notice published in the Jagbani Newspaper on 05.06.2014, prompting the filing of various writ petitions, with CWP-15409-2014 titled as **Lachman Singh and Ors vs State of Punjab**, as the lead case, decided on 17.12.2016 (Annexure P6), quashing the impugned notice and directing the respondents to consider claim of the petitioners, fulfil the requirement of the physical test criteria specified in the advertisement, and

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prepare a fresh merit list, in deference to the which the Senior Superintendent of Police, Amritsar (Rural), through a communication dated 02.05.2017 (Annexure P7), instructed all Station House Officers (SHOs) in the district to inform the candidates bearing Serial Nos. 1001 to 1500 mentioned in the list (Annexure P9) to appear for the physical test and measurements at 6:00 am on 08.05.2017. The necessary proformas to be filled regarding the same, read thus:-

“Police Department

District Amritsar (Rural)

Regarding Intimation to the Candidates

It is certified that candidate _____ son/daughter of _____ Roll No. _____ resident of _____ was informed in the presence of Sarpanch/Member that he/she will report on dated _____ at morning _____ at Police Line, Amritsar Rural, Duburji, regarding the recruitment of Jail Warden/Matern.

PHOTO

Signature of Sarpanch/Member Signature of candidate
Mobile No.

Signature of the Intimating Officer,
Rank and Mobile No.

Consent

I candidate _____ son/daughter of _____ Roll No. _____ have noted down that I will report on dated _____ at morning _____ at Police Line, Amritsar Rural, Duburji, regarding the recruitment of Jail Warden/Matern. If I do not come present on the above said date then I will not claim any right in an appeal.

Signature of candidate,
Mobile No.”

Police Department

District Amritsar (Rural)

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Regarding Intimation to the Relative of the Candidates

It is certified that relative namely _____ of candidate _____ son/daughter of _____ Roll No. _____ resident of _____ was informed in the presence of Sarpanch/Member that he/she will report on dated _____ at morning _____ at Police Line, Amritsar Rural, Duburji, regarding the recruitment of Jail Warden/Matern.

Signature of Sarpanch/Member Signature of Relative
Mobile No.

Signature of the Intimating Officer,
Rank and Mobile No.”

3. This Court vide order dated 22.08.2017 directed the petitioner to submit an affidavit, along with one of his father, clarifying whether the petitioner was available at home on 04/05.05.2017 and that his father had been contacted by both the village Sarpanch and the police officer, who attempted to inform the petitioner. Affidavits, in compliance to the aforesaid order, were placed on record as Annexures P11 (colly) dated 30.10.2017, read thus:-

“Affidavit

I, Roshan Singh son of Sh. Kuldeep Singh, aged about 27 years, resident of village Talwandi Dishonda Singh, Tehsil and District Amritsar do hereby solemnly affirm and declare as under:-

1. That the deponent has filed the present petition, in which the deponent, vide order dated 22.08.2017 passed by this Hon’ble Court, was directed to file his affidavit as well of his father stating the availability of the deponent on 4/5.05.2017 at home and whether the father of the deponent was informed by the Sarpanch of the village as well as by the police official, who went to inform the deponent.

2. That the deponent was available at home on 04/05.05.2017 being un-employed and neither the Sarpanch nor any police official came to inform him or his father as

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on dated 04/05.05.2017.

Chandigarh

Dated: 30.10.2017

Deponent

Verification

Verified that the contents of para No.1 and 2 of my above said affidavit are true and correct to my knowledge. Nothing material has been kept concealed therein.

Chandigarh

Dated: 30.10.2017

Deponent”

“Affidavit

I, Kuldip Singh son of Sh. Piara Singh @ Ghugi Singh, aged about 47 years, resident of village Talwandi Dishonda Singh, Tehsil and District Amritsar do hereby solemnly affirm and declare as under:-

1. That the son of the deponent has filed the present petition, in which the deponent, vide order dated 22.08.2017 passed by this Hon’ble Court, was directed to file his affidavit stating the availability of his son on 4/5.05.2017 at home and whether the deponent was informed by the Sarpanch of the village as well as by the police official, who went to inform the deponent.

2. That son of the deponent was available at home on 04/05.05.2017 being un-employed and neither the Sarpanch nor any police official came to inform him or his son as on dated 04/05.05.2017.

Chandigarh

Dated: 30.10.2017

Deponent

Verification

Verified that the contents of para No.1 and 2 of my above said affidavit are true and correct to my knowledge. Nothing material has been kept concealed therein.

Chandigarh

Dated: 30.10.2017

Deponent”

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4. Reliance is placed by on an affidavit of the Sarpanch of the village, dated 09.08.2017 by the respondents, stating that the father of the petitioner was duly informed, regarding which this Court, while issuing a notice of motion on 19.12.2017, directed the learned State counsel to file a specific reply mentioning as to how the affidavit of Sarpanch was obtained regarding service upon the petitioner, and that one post be kept vacant till further orders.

5. An affidavit dated 23.10.2024 was submitted by the Deputy Inspector General of Prisons, Punjab, in which paragraph 3 mentions that no post was vacant, relevant excerpt whereof is as follows:

“That it is brought to the kind notice of this Hon’ble Court that respondents were directed to keep one post vacant vide order dated 19.12.2017, while the result was published on 06.12.2017. Therefore, it was not possible to keep the post vacant because the result had already been published and appointment letters had also been issued to the candidates, who were in the merit list under the respective categories.”

6. The petitioner preferred a contempt petition i.e. COCP-4635-2024 wherein affidavit was filed by Mr. Surinder Singh, Deputy Inspector General of Prisons, Punjab, dated 03.12.2024, para 3 whereof reads thus:-

“That in pursuance of the said orders, one post has been kept vacant till further order of the Hon’ble Court in terms of the order dated 19.12.2017 passed in Civil Writ petition No.16999 of 2017 by the office of the deponent.”

7. In light of the factual tapestry of this case and the life and breath of the litigation, actions of the respondents are *ex facie* arbitrary. Every employee is entitled to a fair and equitable treatment and administrative actions must be assessed against the touchstone of the principles of "fair play" and reasonableness. Given that the respondents themselves took lead in setting the

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stage for notifying candidates following the decision of this Court on 17.12.2016, issued the requisite proformas to be submitted in this regard, substituting this process later on with the affidavit of the Sarpanch, at their convenience, smacks of *post hoc, ergo propter hoc*, which is evidently an afterthought, and therefore would not suffice. The petitioner ought to have been subjected to the same procedure adopted and complied with as regards other candidates. Even so, equals must be treated equally. As observed by Hon’ble the Supreme Court in **Man Singh vs. State of Haryana**¹ that the concept of equality as enshrined in Article 14 of the Constitution of India embraces the entire realm of State action. It would extend to an individual as well not only when he is discriminated against in the matter of exercise of right, but also in the matter of imposing liability upon him.

8. Accordingly, the present petition is hereby disposed of, with a direction to the respondents to consider and appoint the petitioner as per his merit position against the post kept vacant as admitted in the affidavit dated 03.12.2024, within a period of two months. Needless to say he would be entitled to only notional benefits.

(AMAN CHAUDHARY)
JUDGE

13.01.2025
ashok

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No

¹ (2008) 12 SCC 331