IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

LPA No.909 of 2025
Decided on : 28.10.2026

State of H.P. and others ... Appellants

Versus

Pawan Kumar and another …Respondents.

Coram

Hon'ble Mr. Gurmeet Singh Sandhawalia, Chief Justice.

Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?[1]

For the appellants : Mr. Sidharth Jalta, Deputy Advocate General.

For the respondents : Mr. Surinder Kumar Saklani, Advocate, for respondent No.1.

: None for respondent No.2.

G.S. Sandhawalia, Chief Justice *(Oral)*

In the present appeal, consideration has been sought of the order passed by the learned Single Judge in Civil Writ Petition No. 8022 of 2022, titled Pawan Kumar vs. State of H.P. and others, dated 24.09.2024, whereby the writ petition filed by Pawan Kumar was allowed, and the order dated 1st November, 2022 (Annexure P-5), whereby the services of the writ petitioner were arbitrarily withdrawn, was quashed, and directions were issued to the respondent-State to re-engage the petitioner against the post of

1 *Whether the reporters of the local papers may be allowed to see the Judgment?* ***Yes***

Constable, with continuity of service for all purposes, including seniority.

2. Counsel for the State has submitted that in pursuance of the earlier order dated 16th September, 2022, passed by the Coordinate Bench in a bunch of cases, the lead case of which was CWP No. 721 of 2022, titled Subhash Kumar vs. State of H.P. and others, the entire issue of fixation of the cut-off date of retirement/discharge of ex-servicemen for determining their eligibility for the post of Police Constable, in terms of the recruitment notice dated 10th September, 2021, had to be revisited. It is submitted that in pursuance of the same, the order had been passed by the Commandant, and the interview was fixed for eligible candidates on 10th November, 2022.

3. It is to be noticed that the learned Single Judge examined the record and came to the conclusion that it was not the stand of the respondents before him that the writ petitioner had not been found eligible for appointment to the post of Constable or that he did not fall within the cut-off period of discharge, as determined both before and after the judgment passed by the Division Bench. It was noticed that the appointment order had been issued on 7th September, 2022, before the judgment had been passed by the Division

Bench. The clarification was issued on 29th September, 2022, when an application had been filed, and the appointment order had already been issued. Resultantly, a finding was recorded that there was no such direction requiring the withdrawal of appointment orders issued before 16th September, 2022.

4. Counsel for the State has thus argued that, in view of the specific direction that the recruitment process had to be revisited, the withdrawal had been ordered in pursuance thereof. However, counsel for the State is not in a position to deny the fact that the cut-off date, which was re-fixed, was between 31.10.2019 and 31.10.2021, vide letter dated 31.10.2022 (Annexure R-1), whereas the earlier cut-off period was from 31.10.2019 to 31.12.2020, which had not been approved by the Coordinate Bench.

5. It is apparent from the writ petition that the petitioner, having been discharged on 31st December, 2019, from the Indian Army, fell within the prescribed period of 31.10.2019 to 31.10.2021 and, therefore, was liable to be retained even if the cut-off date had to be revisited. This aspect has thus been correctly appreciated by the learned Single Judge.

6. In such circumstances, and for other reasons as well, we are of the considered opinion that the finding of the learned Single Judge that the selection, as such, had not been set aside may not be correct. However, since the entire selection process had to be revisited, and upon such revisiting, the writ petitioner still falls within the zone of the cut-off date fixed afresh by the respondents themselves, there is no reason for us to interfere with the order passed by the learned Single Judge.

7. Accordingly, the appeal is dismissed as being devoid of any merit, along with the pending miscellaneous applications, if any.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

28th October, 2026
Tarun Singh