



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

**CWP-19646-2013 (O&M)
Date of Decision: 10.07.2025**

Bhupinder Singh Cheema

...Petitioner

Vs.

State of Punjab and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. H.S. Ghuman, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

Mr. Gurminder Singh, Senior Advocate with
Ms. Harpriya Khaneka, Advocate and
Mr. R.S. Gill, Advocate
for respondent No.4.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of appointment of respondent No.4 as Deputy Superintendent of Police.
2. The petitioner is claiming that he is a public-spirited person. He has no direct or indirect relation or enmity with respondent No.4, however, he is assailing his appointment on the ground that respondent No.4's appointment as Deputy Superintendent of Police has been made in violation of Articles 14 and 16 of the Constitution of India as well as Punjab Police Service Rules, 1959.
3. Respondent No.4's father namely Narinderpal Singh was

appointed as Inspector in the police department on 11.07.1979. He from time to time was promoted to higher ranks. In 1991, he was holding post of Senior Superintendent of Police, Tarn Taran. On 07.05.1991, an encounter with militants took place at Village Rataul, District Tarn Taran. He suffered bullet injury in his thigh in the said encounter. He was rushed to a hospital at Amritsar where blood was infused. He remained unconscious for few days. He remained admitted in hospital from 08.05.1991 to 16.05.1991. The blood transfusion took place during his stay at hospital. At a later stage, he acquired Hepatitis-B infection. On account of bullet injury and blood transfusion, he could not carry good health. He remained bedridden for almost two years before his death which occurred on 25.01.2011 at P.G.I.M.E.R., Chandigarh. As per medical certificate issued by P.G.I.M.E.R., Chandigarh, he died due to acute renal failure, cirrhosis of liver and Hepatitis-B.

4. The respondent No.4 namely Alam Vijay Singh moved an application before Police Authorities seeking direct appointment as Deputy Superintendent of Police on the basis of contribution of his father. Director General of Police, vide letter dated 02.02.2011, recommended his name for the post of Deputy Superintendent of Police. The recommendation of Director General of Police under the signature of Principal Secretary to Government of Punjab, Department of Home Affairs and Justice came to be placed before Council of Ministers. A detailed report was prepared wherein respondent No.4's father role was discussed which he had played while combating militants. The Council of Ministers in its meeting held on 22.02.2011 approved

recommendation of authorities. No approval or NOC was received from Punjab Public Service Commission (for short 'PPSC') though matter was referred to PPSC. Pursuant to recommendation of Council of Ministers, the petitioner was issued letter dated 10.03.2011.

5. Mr. H.S. Ghuman, Advocate submits that appointment of respondent No.4 was bad in the eye of law on account of following reasons:

(i) The appointment of respondent No.4 was made in violation of Articles 14 and 16 of Constitution of India. There is no provision in Constitution of India permitting such appointments;

(ii) The medical certificate issued by P.G.I.M.E.R., Chandigarh underscores that respondent No.4's father had died a natural death and it had no link with his encounter with militants in 1991. On the directions of this Court, a report was sought from P.G.I.M.E.R., Chandigarh which discloses that respondent No.4's father had not died because of encounter which took place in 1991;

(iii) Respondent No.4 has been appointed as Deputy Superintendent of Police whereas no compassionate appointment can be made on Group-A or Group-B post. Thus, the appointment on the post of Deputy Superintendent of Police is against the settled principles of compassionate appointment; and

(iv) Respondent No.4 was not possessing requisite qualification. He has not passed matriculation with Hindi, thus, he was ineligible as per Punjab Police Service Rules, 1959

6. *Per contra*, Mr. Gurminder Singh, Senior Advocate and Mr.

Aman Dhir, DAG, Punjab submit that case of respondent No.4 was considered at length by Director General of Police as well as Council of Ministers. A detailed report was prepared wherein role of respondent No.4's father was discussed at length. The Council of Ministers treating the case of respondent No.4 as special case and accorded approval to appoint him as Deputy Superintendent of Police. The appointment was made in 2011 and a period of 14 years has passed away. He has further been promoted to the post of Superintendent of Police. The petitioner has no *locus standi* to file instant petition. He has filed writ of certiorari assailing appointment of respondent No.4. He was never an applicant for the post in question. It is not Public Interest Litigation, thus, petition itself is bad in the eye of law.

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

8. The petitioner is assailing appointment of respondent No.4 on the ground that it was made in violation of Articles 14 and 16 of Constitution of India as well as Punjab Police Service Rules, 1959. As per petitioner, there is no provision which permits State Government to make such appointments. All the State Governments across the country are making appointments on the post of Deputy Superintendent of Police or other Group-A or Group-B on the basis of performance in sports. There is no provision in Constitution permitting or prescribing appointment on the basis of performance in sports. If contention of petitioner is accepted, all the appointments have been made by different States in violation of Articles 14 and 16 of the Constitution of India. State being employer has

right to make appointments. Appointments are commonly made on the basis of act of bravery, on the ground of compassion or victims of terrorism etc. These are not recognised by Constitution. Courts in judicial review are supposed to examine whether there is misuse of power or action of State is arbitrary.

9. In the case in hand, matter was considered by Director General of Police and thereafter, Council of Ministers. It is not a case that by mistake or by chance or noticing wrong facts the appointment has been made. It is a case where Head of the Department as well as Council of Ministers considered case of the petitioner and thereafter decided to make appointment. A detailed report was prepared. Punjab Police Service Rules, 1959 were duly considered. The qualification and physical condition of respondent No.4 was duly considered and, thereafter, it was consciously decided that one post be withdrawn from the purview of PPSC and offered to respondent No.4. There is nothing on record disclosing *mala fide* on the part of official respondents as well as State Government.

10. The petitioner is claiming that father of respondent No.4 had not died because of encounter which took place in 1991 and had died a natural death, thus, respondent No.4 was not eligible for the post. The Director General of Police and Council of Ministers duly considered contribution of respondent No.4's father and thereafter took a conscious decision. This Court while exercising power of judicial review cannot act as Appellate Court. The power of judicial review can be exercised if there is apparent misuse of power or favouritism. The State Government as per

its wisdom found the respondent No.4 eligible for the post. It was a conscious decision of the State Government. The contribution of respondent No.4's father for the State was considered and thereafter appointment was offered.

11. There is another aspect of the matter. The respondent No.4 was appointed on 10.03.2011. A period of 14 years has already passed away. He has further been promoted to the post of Superintendent of Police.

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.”

12. In the case in hand, respondent No.4 joined in 2011. A period of 14 years from the joining has passed away. Respondent No.4 must have gained rich experience. Rejection of his selection, at this stage, would neither be in the interest of public nor official respondents. The afore-cited judgment of Supreme Court is squarely applicable in the instant matter.

13. In the wake of above discussion and findings, this Court is of the considered opinion that instant petition deserves to be dismissed and

accordingly dismissed.

14. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

10.07.2025
Prince Chawla

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