



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

**LPA No. 3137 of 2024 (O&M)
Date of Decision: 31.01.2025**

Bhagat Ram

.....Appellant

Versus

State of Punjab and another

..... Respondents

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Amar Vivek, Advocate
Ms. Sanchi Bindra, Advocate
for applicant-appellant.

Mr. R.S.Pandher, Sr. DAG., Punjab.

LISA GILL, J.

1. Prayer in this appeal is for setting aside order dated 29.08.2024 passed by learned Single Bench, whereby CWP No. 12415 of 1994, filed by appellants/writ-petitioner was dismissed.
2. Appellant/writ-petitioner filed the abovesaid writ petition for setting aside order dated 13.10.1993 whereby his claim for appointment to the post of Inspector was rejected. It was pleaded that writ petitioner was appointed as Assistant Sub-Inspector (ASI) of Police on 02.02.1990 under the Ex-servicemen Category. Advertisement was issued on 13.08.1990

inviting applications for appointment to the post of Inspectors. Writ-petitioner claiming to be fully eligible for the post of Inspector applied in the ex-servicemen category through proper channel. He qualified the physical test. 14% of 12 advertised posts were reserved for the ex-servicemen category. Writ-petitioner's claim for appointment in the ex-servicemen category was rejected on the ground that he had already availed the benefit for the same at the time of appointment as ASI. CWP No. 4559 of 1992 filed by him was allowed on 10.05.1993 directing the respondents to consider appellant/writ-petitioner's claim for appointment to the post of Inspector against the reserved post meant for ex-servicemen and in case he was found more meritorious than persons appointed against the reserved post, appointment be given to the appellant. Petitioner claimed that though two posts fell to the share of ex-servicemen, appointment *qua* only one post had been made in favour of one Jagdish Raj Sharma by the time of decision dated 10.05.1993. However, appointment of Jagdish Raj Sharma was cancelled subsequently in view of his having submitted a fake graduation certificate. Writ-petitioner was called by the authorities for compliance of order dated 10.05.1993, but it was found that as he was less meritorious than the candidate who had been appointed i.e., appellant secured 80 marks whereas Jagdish Raj Sharma had obtained 106.7 marks, thus his claim was rejected. Civil Miscellaneous No. 1370 of 1994 was filed in CWP No. 4559 of 1992 seeking modification/clarification of order dated 10.05.1993 seeking a direction to respondents to appoint the writ-petitioner to the post of Inspector of Police meant for ex-servicemen being the most meritorious candidate amongst ex-servicemen, was dismissed on 02.06.1994 while affording liberty to the writ-petitioner to challenge order dated 13.10.1993 in accordance with law, which led to filing of CWP No. 12415 of 1994.

3. Writ petition was opposed by the respondents while asserting that it was one post out of the 12 advertised posts which fell to the share of ex-servicemen against the 14% reservation. Candidature of the appellant was considered by the authorities in compliance of order dated 13.10.1993. It was asserted that appellant secured lesser marks than the person (Jagdish Raj Sharma) who had been appointed and apart from the same, there were four (04) other persons who had scored more marks than him. It was explained that Jagdish Raj Sharma having higher merit was appointed as Inspector, though later discharged from service on the ground that he produced a fake certificate, but appellant could not claim the same as the post stood utilized.

4. Learned Single Bench on considering the facts and circumstances, dismissed the writ petition.

5. Aggrieved therefrom, present appeal has been filed.

6. Learned counsel for appellant submits that impugned order dated 29.08.2024 has been incorrectly passed. Appellant had earlier filed CWP-4559- 1992, which was disposed of on 10.05.1993 directing the respondent to consider candidature of appellant for the post of Inspector of Police while giving him benefit of reservation. It was directed that consideration should be made against reserved post meant for ex-serviceman, advertised on 13.08.1990 and in case appellant is found more meritorious than persons appointed against the reserve post for ex-serviceman, appellant be afforded the benefit, therefore, consideration of appellant's claim was to be carried out qua the appointed candidate i.e. Jagdish Raj, who was admittedly removed on account of having submitted fake and fraudulent certificate. The plea that there were other candidates who had obtained more marks than the appellant, cannot be taken by the State when those candidates had not come-forward. Moreover, as reservation

was to the extent of 14% and with there being 12 posts, 02 posts were required to be reserved. Furthermore, it is incorrectly observed by learned Single Bench that there is delay on the part of appellant in approaching the Court as writ petition had been filed in the year 1994 itself at the first instance. Learned counsel for appellant further submits that there has been an attempt on the part of respondents to improve their case while filing the written statement. It is thus prayed that present appeal be allowed and writ petition filed by appellant-writ-petitioner be allowed as prayed for.

7. Learned counsel for respondent-State refutes the averments on behalf of appellant/writ-petitioner while submitting that impugned order has been correctly passed by learned Single Bench. Question of delay as mentioned by learned Single Bench, it was submitted was being incorrectly interpreted by appellant/writ-petitioner inasmuch as expiry of 31 years has been referred to only with respect to unsettling the appletcart at that time. It is further pointed out that only one post was reserved for ex-servicemen category as per roster point and there was no backlog qua the said category at the relevant point of time. The post stood consumed with the appointment of Jagdish Raj Sharma on this post and termination/discharge of his services cannot be of any benefit to appellant/writ-petitioner. It was thus prayed that present appeal be dismissed.

8. We heard learned counsel for the parties and have gone through the file carefully.

9. Factual aspect of appellant/writ-petitioner being appointed on 02.02.1990 to the post of ASI under the ex-servicemen category, his applying for the post of Inspector subsequent to advertisement dated 13.08.1990 under the ex-servicemen category, rejection of his candidature, passing of order dated 10.05.1993 in CWP No. 4559 of 1992 and subsequent

consideration of his claim and rejection thereof vide order dated 10.10.1993 are all a matter of record. It is further a matter of record and not denied by appellant/writ-petitioner that appellant/writ-petitioner secured 80 marks and there were five candidates who were above him in merit i.e., Jagdish Raj Sharma with 106 marks, Jaspinder Singh, Jagjit Singh, Darshan Singh and Swaran Singh having secured 105 marks, 96.50 marks, 94.50 marks and 93.75 marks, respectively.

10. In our considered opinion, there is no violation of order dated 10.05.1993, as has been urged before us. It is specifically observed in order dated 10.05.1993 that 'in case the petitioner is found more meritorious than persons appointed against the reserved posts for the ex-servicemen then the petitioner would be given appointment as Inspector from the same day as the person, who was less meritorious had been appointed. In that eventuality, he would get all benefits so appointment for the post of Inspector, but would not be paid any arrears of pay for the post of Inspector.'

11. The post in question stood consumed by appointment of Jagdish Raj Sharma, who had admittedly secured more marks than appellant/writ-petitioner. We also take note of short reply by way of affidavit dated 07.02.2024 of Mr. Gaurav Toora, AIG Personnel-II, Punjab, on behalf of respondents no.1 and 2, filed in compliance of order dated 02.05.2023 passed by learned Writ Court calling upon the State to file a specific affidavit as to whether the post in ex-servicemen category for which appellant/writ-petitioner was allowed to compete, was consumed or not. As per said affidavit, post is stated to have been utilized/consumed. Learned counsel for appellant was unable to point out otherwise.

12. In the given facts and circumstances, we do not find any ground whatsoever to cause interference in this matter. Learned counsel for

appellants was unable to point out any illegality, infirmity or perversity in the impugned order dated 29.08.2024, passed by learned Single Bench, which calls for interference by this Court.

13. No other argument was addressed.

14. Keeping in view the facts and circumstances as above, this appeal is dismissed being devoid of any merit. Pending application(s), if any, stand(s) disposed of accordingly.

**(LISA GILL)
JUDGE**

January 31, 2025

s.khan

**(SUKHVINDER KAUR)
JUDGE**

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No