



CWP-6957-2016

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

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CWP-6957-2016

Date of Decision: 19.09.2025

Dalvir Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Baldev Singh, Advocate (*through video conferencing*) and
Mr. Shubham Sharma, Advocate for the petitioner

Mr. Ravi Partap Singh, Deputy Advocate General, Haryana

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondent to issue him appointment letter against Advertisement No.1/2013.
2. The petitioner, pursuant to Advertisement No.1/2013, applied for the post of Constable (Ex-Serviceman). He appeared in the Physical Efficiency Test ('PET'). He qualified the said test and was called for interview held on 16.05.2014. He scored 26 aggregate marks in PET (16 out of 20) and interview (10 out of 15). The last selected candidate also scored 26 marks and was younger to him still was selected.
3. Learned counsel for the petitioner submits that as per advertisement and applicable Rules, the respondent was supposed to consider aggregate marks of PET and interview. The respondent as per reply has considered marks of PET. The petitioner secured 26 marks and many



selected candidates scored same marks. The petitioner was elder to last selected candidate, thus, was entitled to the post.

4. *Per contra*, learned State counsel submits that no mechanism was prescribed in the Rules, as well as advertisement to tackle with a situation arising on account of scoring equal marks by multiple candidates. In the absence of Rules, a Committee was constituted to resolve the issue because 53 candidates scored equal marks i.e. 26 in PET and interview. The Committee evolved criteria of marks in PET and age. The candidates who scored more marks in PET were given priority. The candidates who scored equal marks in PET were arranged on the basis of age. The petitioner was found at Serial No.15 in the waiting list. There were 14 candidates who were either elder to him or had scored more marks in PET.

5. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

6. From the perusal of record, it is evident that selection process was initiated in 2013 and completed in 2014. During the relevant period, unamended Rule 12.16 of Punjab Police Rules, 1934 (as applicable to State of Haryana) was applicable to recruitment of Constables. For the ready reference, relevant extracts of Rule 12.16 are reproduced as below: -

“12.16 Procedure for recruitment: - (1) All vacancies in the rank of Constables shall be filled up by direct recruitment out of which 3% may be filled up from outstanding sports persons.

(2) Selection of candidates for recruitment as constables shall be made after giving wide publicity through Employment Exchange and through Hindi and English Newspapers having circulation in Haryana and adjoining areas.



(3) *The advertisement regarding recruitment shall inter-alia include the proforma of the application from on which the candidates would be required to submit their applications for recruitment. The advertisement shall also mention the likely number of vacancies to be filled up and the date, time and venue of recruitment.*

(4) *The process of recruitment shall be set in motion by the Selection Boards on the same date and at the same time to be decided by the Director General of Police, Haryana.*

(5) *Selection of candidates for recruitment as constables shall be done by a Selection Board.*

(6) *The physical standards as already laid down from time to time subject to the relaxations to the Scheduled Castes/Scheduled Tribes candidates and to the candidates belonging to the Backward Classes, if any, shall be adhered to strictly while making selection.*

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(15) *The total qualifying mark in the physical efficiency test shall be 9 only and candidates securing a total of less than 9 marks in these test shall be deemed to have failed the physical efficiency tests and will be eliminated. The achievement/performance of each candidate in the physical efficiency tests shall be entered in another register to be called Physical Efficiency Test Register to be maintained in form 12.16(C). The names of the candidates shall be entered in the physical efficiency test register as per their registration number in an ascending order. Each name shall also be given a fresh serial number which will be the physical efficiency test serial number for that candidate. Entries regarding performance of each candidate in the physical efficiency test shall be authenticated by the Chairman and members of the Selection Board by signing (sic) on each page. Register will also show the marks obtained by each candidate in each of the physical efficiency tests and the total thereof.*

(16) *All the candidates who are declared qualified in the physical efficiency tests shall be interviewed by the Selection Board to judge their suitability for a police job. The maximum*



marks for interview/personality test shall be 15 only. The marks secured in the interview by the candidates shall also be entered in the Physical Efficiency Test Register.

(17) On completion of the interview/personality test all the candidates who had qualified the physical efficiency test and had appeared for the personality test will be arranged as per their interse merit on the basis of the marks secured by them in the physical efficiency tests and interview. Separate merit lists shall be prepared for the general candidates belonging to the Backward Classes, candidates belonging to Scheduled Castes/Scheduled Tribes and to the Ex-Service-men category.”

7. From the perusal of above-quoted Rule, it is evident that selection of Constables was governed by said Rule. As per sub-rule (17), merit of candidates was to be prepared as per marks obtained in PET and interview. Rule is silent with respect to a situation arising on account of equal marks. The respondent invited applications by floating an advertisement. The petitioner is relying upon Clause 9(c) of the advertisement. The said clause is reproduced as below: -

“General

9.

(a) A candidate against whom a criminal case stands registered and is under investigation or pending trial or who has been convicted by a Court of Law need not apply.

(b) Person less in height & chest measurement and with any physical deficiency need not apply.

(c) Merit list will be drawn on the basis of aggregate marks obtained by the candidate in PET and interview.”

8. From the perusal of above quoted clause, it is evident that merit list had to be prepared on the basis of aggregate marks obtained in PET and interview. There is no answer to a situation arising on account of equal



marks obtained by multiple candidates. In case of equal marks of 2-3 candidates, the respondent could consider age and determine merit. In the instant case, there were 53 candidates who secured equal aggregate marks i.e. 26. The respondent evolved mechanism of marks of PET and age. The candidates who scored higher marks in PET were given priority. From the perusal of select list, it is evident that all the selected candidates having aggregate 26 marks have scored 18 marks in PET. There were 3 candidates in the waiting list who had scored 18 marks in PET. The candidates who had scored equal marks in PET had been arranged as per their age. The petitioner secured 16 marks in PET and was not placed in select list because sufficient candidates who had scored 18 marks in PET. The petitioner was indubitably elder than few candidates who were selected on the basis of marks secured in PET, however, there were many candidates who were elder to the petitioner and had scored 16 marks in PET still were not selected. They were also in the waiting list.

9. From the above noted facts, it is evident that respondent on account of absence of particular Rule and guidance in advertisement evolved mechanism to resolve problem arising on account of equal marks scored by more than 50 candidates. There seems no arbitrariness or unreasonableness in the mechanism adopted by respondent. It is settled law that in the absence of Rules, the Authorities to resolve unforeseen problem are supposed to develop mechanism which should not be arbitrary and unreasonable. There is nothing on record disclosing that respondent evolved mechanism of marks in PET and age just to favour few candidates. The authorities as per their wisdom evolved the mechanism. They were best judge to deal with the situation. There seems no misuse of power or abuse of process, thus, the mechanism evolved by respondent cannot be ignored or set aside.



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10. The petitioner was at Serial No.15 in the waiting list. He had secured 16 marks in PET. All the selected candidates had scored 18 marks in PET. There are 2-3 selected candidates who were younger to him. This Court cannot ignore the fact that there were many candidates who were elder to the petitioner and had scored 16 marks in PET and 26 aggregate marks i.e. equal in all aspects with the petitioner. They were eligible for the post instead of the petitioner. They had not doubted criteria evolved by the respondent.

11. There is another facet of the matter. The selection process was initiated in 2013 and completed in 2014. A period of 11 years from the date of completion of selection process has passed away. The petitioner approached this Court in 2016, however, the petition is pending since then. The post of Constable is a public post to which a lot of responsibilities are attached. Physical and mental fitness is of paramount consideration in Police Force. The petitioner cannot be expected of having fitness as postulated for Constable at the time of initial selection.

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

(JAGMOHAN BANSAL)
JUDGE

19.09.2025

Mohit Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No