

(2025) 12 P&H CK 0018

Punjab And Haryana HC

Case No: Civil Writ Petition No. 4590 Of 2009

Sakil And Others

APPELLANT

Vs

Surinder And Another

RESPONDENT

Date of Decision: Dec. 12, 2025

Acts Referred:

- Constitution Of India, 1950-Article 14, 226, 227
- Punjab Police Rules, 1934- Rule 12.3, 12.3(2)

Hon'ble Judges: Jagmohan Bansal, J

Bench: Single Bench

Advocate: Ravinder Malik, Anuj Malik, H.S. Dhindsa, Puneeta Sethi, Ravi Partap Singh, Gurlabh S. Bhaika Sidhu, Samrat Malik

Final Decision: Disposed Of

Judgement

Jagmohan Bansal, J

1. As common issues are involved in the captioned petitions, with the consent of all parties, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from CWP No.4590 of 2009.
2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of selection of respondent Nos. 4 to 8.
3. During the pendency of petition, the petitioner waived of her challenge qua respondent No.5-Sameer. Accordingly, respondent No.5 was deleted from the array of respondents.
4. The respondent with intent to encourage sportspersons vide advertisement dated 12.10.2008 invited applications from sportspersons for the post of Sub-Inspectors. 10 posts were advertised. In the advertisement, qualification was prescribed. Recipients of Arjun Award of Government of India or Bhim Award of the State of Haryana, winners of Gold/Silver/Bronze Medal in Olympics or winners of

Gold/Silver/Bronze Medals in Commonwealth Games or Asian Games or winners of Gold Medal in Asian Championships conducted by recognized International/National Federations or winners of Gold/Silver Medal in SAARC Games or winners of Gold Medal in National Championships were eligible to apply. In the advertisement, procedure for selection was prescribed. As per procedure, candidates had to file application. The Recruitment Board had to examine sports achievements and shortlist candidates eligible for physical measurement. The said process comprised measurement of height and chest. The candidates complying with the prescribed standards of height and chest were eligible for interview. The respondent shortlisted 30 candidates for interview. There were 20 marks for interview/personality test. In the interview, the Recruitment Board was supposed to assess current form of candidates, utility to department and present level of physical fitness. The Inspector General of Police, Ambala Range, Ambala on 26.02.2009 after completing selection process forwarded names of 11 (10+1) candidates to Director General of Police, Haryana who ordered to appoint 10 candidates.

5. The petitioners are assailing selection of 5 candidates. Selection of 2 candidates is assailed in CWP No.4590 of 2009 and 3 more in CWP No.19765 of 2009. The petitioners are primarily claiming that they are possessing better sports achievements, thus, were more meritorious e.g. they are claiming that they have played in Seniors Championship whereas selected candidates played Juniors Championship. They are further claiming that there are two candidates who were not even eligible to participate because they were not possessing requisite sports achievements. There are 2 candidates who were possessing forged certificates. The Recruitment Board did not follow prescribed criteria while granting marks in the interview. Candidates of lesser merit were granted higher marks, thus, meritorious candidates could not be selected.

6. Learned counsel for the petitioners submit that fraud vitiates everything. Selected candidates are possessing medals of National Championship and that too of junior level whereas petitioners are possessing better medals and that too of senior level. The respondent did not follow criteria prescribed in the advertisement. They have selected candidates of lower merit. The petitioners are more meritorious because they have won medals at International level. The respondent awarded marks to selected candidates in an arbitrary and unreasonable manner. No procedure was followed. The respondent was bound to consider candidates who are possessing medals of International games. The terms and conditions of the Advertisement were as vague as could be.

7. Learned counsel for the petitioners, on being asked, could not point out any certificate of selected candidates which can be called as forged or fabricated. Mr. H.S. Dhindsa, Advocate submits that the petitioners may be granted liberty to point out to Recruitment Board, if at any stage, they get concrete evidence disclosing that

any certificate of selected candidates was forged or fabricated.

8. Learned counsel for the private respondents as well as State counsel submit that no selected candidate had submitted forged/fabricated certificate. All the selected candidates were possessing requisite certificates. The Recruitment Board conducted interview and fairly awarded marks to candidates as per their performance. There is no evidence of mala fide or arbitrariness. The Board was not bound to recruit a candidate merely on the ground that he was possessing medal of International game.

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

10. The conceded position emerging from the record is that petitioners as well as private respondents applied for the post of Sub-Inspector advertised by respondent. The posts were exclusively for sportspersons. There was no written or physical test. There was interview comprising 20 marks. The Physical Measurement Test was carried out to ascertain chest and height of the candidates. In the Punjab Police Rules, 1934 (as applicable to State of Haryana) (for short PPR), height and chest for each Class of Officers have been prescribed. No candidate could be selected who was not possessing minimum height and chest.

11. In the Advertisement, the respondent prescribed qualification.

The qualification prescribed in the Advertisement was nothing more than reiteration of Rule 12.3(2) of PPR. For the ready reference, Rule 12.3 and relevant clause of the advertisement are reproduced as below :-

Rule 12.3. Direct appointment of Inspector and Sub-Inspector. - (1) 20% of the posts of Inspectors shall be filled up by direct recruitment. In addition 3% of posts may be filled up by the direct recruitment from the outstanding sports persons who are recipients of Arjun Award of Government of India, winners of Gold/Silver/Bronze Medal in Olympics, Gold Medal winners in Commonwealth Games or Asian Games in sports events for which competition is held in Olympics.

(2) 47% of posts of Sub-Inspectors shall be filled up by direct recruitment. In addition 3% of posts may be filled up by the direct recruitment from the outstanding sports persons who are recipients of Arjun Award of Government of India or Bhim Award of the State of Haryana, winners of Gold/Silver/Bronze Medal in Olympics or winners of Gold/Silver/Bronze Medals in Commonwealth Games or Asian Games or winners of Gold Medal in Asian Championships conducted by recognized International/ National Federations or winners of Gold/Silver Medal in SAARC Games or winners of Gold Medal in National Championships.

Sportsman shall include both male and female.

Advertisement

Educational Qualification:

(i) Graduate of recognized University. Candidates must possess knowledge of Hindi/Sanskrit upto Matric Standard. Relaxation in educational qualification may be given by the Director General of Police, on the written recommendations of Selection Board in special cases.

(ii) Outstanding sports persons who are recipients of Arjun Award of Government of India, or Bhim Award of the State of Haryana, or winners of Gold/Silver/Bronze medal in Olympics, or winners of Gold/Silver/Bronze medal in Commonwealth Games or Asian Games or winners of Gold Medal in Asian Championships conducted by recognized International/National Federations or winners of Gold/Silver Medal in SAARC Games or winners of Gold Medal in National Championships conducted by recognized National Federations.

Those who are found up to the desired standard will be permitted to appear in interview. In case sports persons of required standard are not available then such seats shall not be filled up.

12. From the perusal of above quoted Rule, it is evident that sportspersons who are recipient of Arjun Award or Bhim Award or winners of Gold/Silver/Bronze in Common Wealth Games or Asian Games are eligible to participate in the selection process. As per said Rule, winners of Gold Medal in National Championship are also eligible to participate. An Arjun awardee or Bhim awardee is equal to winner of gold medal in National Championship. This is just like where minimum qualification is prescribed as graduate and candidates having Ph.D. or M.Phil. are also eligible to participate. It is apt to notice here that in the Rule, there is no requirement with respect to National Championship that it should be conducted by recognized National Federation whereas in the Advertisement expression conducted by recognized National Federations has been incorporated.

13. The selected candidates were possessing medals for participating in National Championships or International Championships. They might not be possessing medals better than possessed by petitioners, however, they were possessing medals which were necessary to become eligible to participate. Award or medal made the candidates eligible to participate. The respondent, as per Advertisement and applicable Rules, was supposed to conduct physical measurements to determine height and chest of candidates. There is no dispute with respect to physical measurements of selected candidates. The respondent conducted interview of 30 candidates. A few candidates were interviewed on 08.01.2009 and remaining on 09.01.2009.

14. During the course of hearing, learned State counsel produced original record of interview which after careful perusal, was returned. As per original record, the

Recruitment Board comprised three I.P.S. Officers. They awarded marks to each candidate. Interview was conducted on 08.01.2009 and 09.01.2009 and combined result was prepared on 26.02.2009. From the result produced during the course of hearing, it cannot be concluded that Recruitment Board awarded marks separately for current form of candidates, their utility to the Department and their present level of fitness. The Recruitment Board collectively awarded marks of interview.

15. The petitioners are claiming that they were possessing better medals/awards still were not selected. The respondent did not prescribe/notify criteria for awarding marks in the interview. This led to arbitrary decision of Recruitment Board. The Recruitment Board awarded higher marks to candidates to whom they were interested to select. They blatantly ignored merit of the petitioners and granted higher marks to candidates who were having gold medal for participating in Junior National Championship or a National Championship organized by other than recognized National Federations. The petitioners, at this stage, are primarily assailing absence of criteria for awarding marks in interview.

16. The petitioners participated in the selection process without any demur or protest. By participating in the process, they acquiesced to the terms and conditions of the advertisement. As per principle of estoppel, they are prevented from assailing one or other clause of the advertisement.

17. A two Judge Bench of Apex Court in *Tajvir Singh Sodhi and Others v. State of Jammu and Kashmir and Others* 2023 SCC OnLine SC 344 has held that candidates, having taken part in the selection process without any demur or protest, cannot challenge the same after having been declared unsuccessful. The candidates cannot approbate and reprobate at the same time. A candidate cannot allege that selection process was unfair or there was some lacuna in the process just because selection process was not palatable to a candidate.

17.1 In *Ramesh Chandra Shah v. Anil Joshi*, (2013) 11 SCC 309, after referring to a catena of judgments on the principle of waiver and estoppel, Supreme Court did not entertain the challenge to the advertisement for the reason that the same would not be maintainable after participating in the selection process. The relevant extracts of the judgment read as:

24. In view of the propositions laid down in the above noted judgments, it must be held that by having taken part in the process of selection with full knowledge that the recruitment was being made under the General Rules, the respondents had waived their right to question the advertisement or the methodology adopted by the Board for making selection and the learned Single Judge and the Division Bench of the High Court committed grave error by entertaining the grievance made by the respondents.

17.2 The petitioners indubitably participated in the selection process which was initiated in terms of advertisement. As laid down by Honble Supreme Court in

above noted judgments, no one after participating in the selection process can be heard to challenge advertisement, however, no candidate can be stopped from challenging validity of the rules or instructions made thereunder on the ground that rules/instructions are arbitrary and violative of Article 14 of the Constitution of India

17.3 The Honble Supreme Court in *Somesh Thapliyal and another v. Vice Chancellor, H.N.B. Garhwal University and another*, (2021) 10 SCC 116 has adverted with challenge to terms and conditions of advertisement or appointment letter by a candidate after his selection. The Court has opined that employer is always in a dominating position, thus, in case of public employment, terms and conditions are subject to judicial scrutiny. The relevant extracts of the said judgment read as:

42. The submissions of the learned counsel for the respondents that the appellants have accepted the terms and conditions contained in the letter of appointment deserves rejection for the reason that it is not open for a person appointed in public employment to ordinarily choose the terms and conditions of which he is required to serve. It goes without saying that employer is always in a dominating position and it is open to the employer to dictate the terms of employment. The employee who is at the receiving end can hardly complain of arbitrariness in the terms and conditions of employment. This Court can take judicial notice of the fact that if an employee takes initiation in questioning the terms and conditions of employment, that would cost his/her job itself.

43. The bargaining power is vested with the employer itself and the employee is left with no option but to accept the conditions dictated by the authority. If that being the reason, it is open for the employee to challenge the conditions if it is not being in conformity with the statutory requirement under the law and he is not estopped from questioning at a stage where he finds himself aggrieved.

17.4 A two Judge Bench of Honble Supreme Court in *Munindra Kumar and others v. Rajiv Govil and others*, (1991) 3 SCC 368 has held that candidates who have remained unsuccessful in the selection process cannot be estopped from challenging the Rules which are arbitrary and violative of Article 14 of Constitution of India. The relevant extracts of the judgment read as:-

10. . It may be noted that Rajeev Govil, Vivek Aggarwal and Gyanendra Srivastava who remained unsuccessful had filed the writ petitions after taking chance and fully knowing the percentage of marks kept for interview and group discussion. It is no doubt correct that they cannot be estopped from challenging the rule which is arbitrary and violative of Article 14 of the Constitution, but in modulating the relief, their conduct and the equities of those who have been selected are the relevant considerations.

17.5 A two-Judge Bench of Honble Supreme Court in *Abhimeet Sinha and others v. High Court of Judicature at Patna and others*, (2024) 7 SCC 262 has adverted to

question of maintainability of writ petition after participating in the selection process. The Court has clearly held that principle of estoppel cannot override the law. To non-suit the writ petitioner at the threshold would hardly be reasonable particularly when the alleged deficiency in the process could be gauged only by participating in the selection process.

18. From the perusal of above-quoted judgments, it is quite evident that a candidate cannot be estopped from assailing clause(s) of advertisement which are arbitrary and violative of Article 14 of the Constitution of India.

19. The petitioners, in the present case, have not challenged either Rule 12.3(2) of PPR nor eligibility prescribed in the advertisement. During the course of hearing, they pleaded that absolute discretion was given to Recruitment Board which was against the settled principles of law. Absolute discretion means unbridled and unguided power which always lead to arbitrariness. It is well known that equality and arbitrariness are two sworn enemies.

20. The petitioners may be correct in their contention that Recruitment Board assumed unbridled and unguided powers to select candidates which resulted in rejection of meritorious candidates. In the absence of challenge to Rules or terms and conditions of the advertisement, this Court cannot set aside terms and conditions of the advertisement which would entail setting aside of appointment of already selected candidates. The selection process was initiated in 2008 and completed in 2009. There were 10 posts and 7 candidates joined in 2009 and 3 could not join because of interim orders of this Court. This is also unfortunate that a selection matter is pending before this Court for the last 16 years. Neither the petitioners nor the selected candidates have been permitted to join because of interim orders of this Court.

21. From the perusal of record, it cannot be concluded that selected candidates were not possessing requisite medals. The petitioners have attempted to point out that selected candidates were not possessing requisite medals. Actually, the petitioners have attempted to point out that their medals are of International or National Championships conducted by recognized Federations whereas medals of selected candidates are of National Championships. They are further trying to plead that respondents have gold medals of National Championships which were not conducted by recognized National Federations. From the perusal of certificates/medals, it is difficult to conclude that selected candidates were not possessing gold medals of National Championship. As per Rule 12.3(2) of PPR, a candidate must possess gold medal of National Championship and there is no requirement that it should be organized by recognized Federation. In the advertisement, it was mentioned that National Championship must have been organized by recognized National Federation. The certificates placed on record by respondents indicate that selected candidates had participated in National Championship organized by recognized National Federations. They are also

possessing other medals.

22. The Recruitment Board awarded marks as per its assessment. There is nothing on record to conclude that there was fraud on the part of Recruitment Board. In the absence of bifurcation of marks under particular head, the Board decided to grant marks out of total 20. This Court cannot adjudicate validity of quantum of marks awarded to candidates. Recruitment Board is the best agency to determine marks of the candidates. Any order of this Court holding that Recruitment Board awarded marks arbitrarily may disturb appointment of already selected candidates who joined service in 2009. There is no evidence of fraud, connivance or misrepresentation on the part of selected candidates. In the absence of fraud, connivance or misrepresentation, this Court cannot sit over the decision of Recruitment Board.

23. In the wake of above discussion and findings, this Court deems it appropriate to direct official respondents to permit selected candidates to join within four weeks from today subject to their medical examination and re-verification of medals/certificates. As conceded by learned counsel for the private respondents, on instruction from their clients, the date of joining of the private respondents shall be their date of appointment for all intents and purposes. The petitioners are at liberty to point out official respondents any concrete evidence, within four weeks from today, indicating that certificate(s) produced by selected candidates are forged or fabricated.

24. The petitions stand disposed of in above terms.