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Sunder Singh Vs The Director General of Police and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Sept. 10, 2010

Acts Referred: Punjab Police Rules, 1934 â€" Rule 12.15 , 12.16, 12.17

Hon'ble Judges: Ranjit Singh, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Ranjit Singh, J.
The petitioner has filed this writ petition, seeking direction for his appointment to the post of Constable and for allowing

him to join training as required under Punjab Police Rules.

2. The petitioner claims to have been selected for appointment as Constable by Commandant, IInd Battalion, H.A.P, Madhuban, who is

appointing authority of Constables and Head Constables. The petitioner states that he was declared fit and was sent to Chief Medical Officer,

Rohtak, for medical examination and was declared medically fit as can be seen from certificate, Annexure P-2. The name of the petitioner was,

therefore, sent to District Magistrate, Rohtak, on 14.9.1992 for his character verification and verification of his antecedents. The petitioner

thereafter was not given appointment and constabulary number whereas the other persons selected with him were so appointed and detailed for

undergoing training. Since the petitioner was not appointed despite having been found fit and suitable, he approached respondent No. 3 but was

not allowed to see him. He accordingly filed this writ petition, seeking direction as mentioned above.

3. In response to notice of motion, reply was filed. Reference is made to the provisions of Rule 12.15 to 12.17 of the Punjab Police Rules, which

provide the standard/procedure for recruitment of Constables. Before being appointed, a person is required to be declared physically fit, besides

verification of his character. The character verification is also got done in advance. It is accordingly stated that mere fact that the petitioner was sent

for medical examination or that his character verification was got done, would not make him eligible for recruitment. As per the respondents, no

order of enrollment or recruitment of the petitioner as Constable was ever passed. Reference is made to a decision in Civil Writ Petition No. 1178

of 1990 Anil Kumar v. State of Haryana where writ petition containing similar ground was dismissed on 6.2.1990. The order is as under:

Neither we find violation of any rule nor the petitioner is able to make out a case of discrimination. Dismissed.

Special Leave Petition filed against this order was dismissed by the Hon''ble Supreme Court on 19.11.1990. Reference is also made to some other

Civil Writ Petition Nos. 55 of 1991 and 15226 of 1992, containing similar challenge which were also dismissed. It is accordingly stated that only

procedural formalities of the recruitment were carried out and the petitioner was never selected as Constable and the same, as such, would not

confer any right on the petitioner for appointment. Accordingly, it is prayed that the writ petition be dismissed.

4. The writ petition was admitted on 16.5.1994. Directions were also issued for hearing the case on 11.7.1994, high-up in the list. The writ petition

was thereafter listed on number of occasions but could not be heard and decided. It is now taken up for hearing.

5. In the reply filed, the procedure for conducting a physical test for holding medical examination of the petitioner has been justified because of the

existing requirement. It is pointed out that the Punjab Police Rules were framed in the year 1934. At that time, there was not very many persons

wanted to join the police service as Constable. There were always more vacancies than the applicants. So, no provision was either made for

physical fitness test or for interview. All those who fulfilled the conditions prescribed in the rules used to be appointed as Constables. In the present

day scenario, the situation has undergone a see change. Undoubtedly, there is an acute unemployment. An illiterate person, who fulfills the physical

measurement test, could have been selected in the year 1934 or thereafter but the present day situation is such where more than 1000 candidates

would compete for 10 to 15 posts. Indeed that was the situation when the petitioner had applied for appointment to the post of Constable.

Accordingly, some procedure was required to be followed for short listing the candidates. This could be done either by holding a written test or

interview or a physical test. There was no requirement of holding a physical test, when the rules were originally framed and names of willing

candidates, who presented themselves for recruitment, used to be entered in the register and after measuring their height and chest, they were sent

for medical examination and character verification. It is, thus, pointed out that the medical examination was always done in advance for recruitment

but this necessarily did not mean selection and consequently allotment of a constabulary number.

6. That being the position, it can not be said that the petitioner was selected and was not given appointment because of any undisclosed reasons.

Except for indicating that the petitioner had been made to undergo physical examination followed by medical examination, there is no material

placed on record to show that the petitioner was appointed as Constable. In fact, Annexure P-1 would clearly show that the petitioner was only

being considered for appointment as temporary Constable and so he was referred to Chief Medical Officer for medical examination. The plea that

the petitioner has been appointed, thus, can not be accepted.

7. In any case, the petitioner had filed this petition in the year 1993 for seeking appointment to the post of Constable. By efflux of time, the

petitioner, by now, would have become totally ineligible for appointment on various grounds, including on account of his age.

8. There is, thus, no merit in the writ petition and the same is accordingly dismissed.