
(2010) 07 SHI CK 0032

In the High Court Of Himachal Pradesh

Case No : O.A. No. 700 of 2006 and C.W.P. (T) No. 13070 of 2008

Ankush Saini

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 16-07-2010

Acts Referred:

Citation : (2010) 2 ShimLC 521

Hon'ble Judges : Kuldip Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Kuldip Singh, J.—The Petitioner has prayed mainly the following relief:

That the impugned action of the Respondents in verbally cancelling the selection of the applicant may very kindly be quashed and set-aside with directions to the Respondents to allow the applicant to continue serving as constable as selected with all consequential benefits of pay, seniority etc. etc. and further directions may very kindly be issued to the Respondents not to keep ill will or malice for having approached this Hon''ble Court for the redressal of his genuine grievance and take him in service for all intents and purposes.

2. The Petitioner''s case in brief is that statement of Additional Director General of Police (Administration) was published in some newspapers stating therein that 918 Constables would be recruited in State in two reserved Battalions. It was also stated that 701 posts of constables in 3rd Battalion and 217 constables in 1st Battalion would be filled in on the basis of district-wise population with the condition that candidates should be bonafide residents of Himachal Pradesh, they should be registered with concerned Employment Exchanges. The educational qualification for General Category and Backward Classes candidates was matriculate whereas SC and ST candidates should be middle pass and the candidates should be in the age group of 18 to 25 years.

3. The Petitioner was eligible and was registered with the Employment Exchange

in Kangra District. He appeared in the written test with Chest No. 1166 and qualified the test. He was called for the interview but was not selected. Many candidates belonging to other districts were allowed to appear in District Kangra and some of them were selected.

4. The Petitioner got his name cancelled from Employment Exchange in Kangra District and got himself registered with Employment Exchange in Kullu District. He appeared in the selection process of Constables in Kullu District with chest No. 292 and was declared successful and was selected as Constable in" Kullu District.

5. There was no bar that candidate of one district could not appear in other district, the Petitioner has relied Annexure A-2 which is meant for Kangra District. It was submitted by the learned Counsel for the Petitioner that the same norms were provided for recruitment in other districts in Himachal Pradesh which were mentioned in Annexure A-2 except that instead of Kangra District respective District would be read in Annexure A-2.

6. The Petitioner had joined the training course at PTC Droh and remained there for three days but to his surprise the Respondents verbally terminated the selection of the Petitioner. The Petitioner was informed that he appeared in the recruitment test in Kangra District and then in Kullu District. There was clear stipulation in the recruitment form that willful misrepresentation of any fact shall entail disqualification of the candidate/as such, selection of the Petitioner was cancelled. The selection of Petitioner was cancelled verbally, illegally and in violation of Annexure A-2. There is no column in the form disqualifying the candidature of a candidate if he appeared in any other District. The Petitioner supplied the correct information when he was asked. It has been alleged that the entire action of the Respondent is illegal, arbitrary and against the principle of natural justice. There was no condition that one can appear only in one district. The condition was that one must be registered in Employment Exchange in the concerned District. The cadre of constables is a State cadre and district level selection has no concern if some one appears in another district. The reasoning given for cancellation of selection of Petitioner is ultra vires.

7. The petition was contested by the Respondents by filing reply. The Respondents have taken the stand that recruitment was to be made as per policy of the State on population percentage basis and, therefore, posts were distributed amongst the Districts of the State, 58 posts were allotted to Kullu District on population percentage basis. The persons of a particular District subject to eligibility were eligible for recruitment whose names were registered in the Employment Exchange in that particular District. The candidates appearing in one District were not eligible to take recruitment test in other District. The candidates were required to give undertaking to this effect. The Petitioner appeared in Kangra District under Chest No. 1166 and in Kullu District under Chest No. 292. The Petitioner while appearing in Kullu District for recruitment test gave an undertaking that he had not earlier appeared in the recruitment test

and for the current recruitment process for the police constable for 3rd IR Bn and 1st IR Bn in the year 2005 in any other district. The declaration of Petitioner to this effect is Annexure R-I and also in recruitment form Annexure R-II. The Petitioner willfully misrepresented the facts and as per conditions laid down he was disqualified. The Respondents have also taken the pleas of estoppel and acquiescence. One Kuldeep Singh appeared in District Mandi and in District Kangra. He was provisionally selected in District Kangra but on verification when it was found that he appeared in two Districts, his candidature was rejected. The Petitioner has filed rejoinder and reiterated his stand.

8. I have heard the learned Counsel for the parties. The Annexure A-2 is the form of notification of vacancies for District Kangra, under the mode of recruitment it has been provided that the recruitment will be open and the candidates must be registered with Employment Exchanges of Kangra District and should be a bona fide resident of Himachal Pradesh. In column No. 14 of Annexure A-2, it has been provided that candidates whose names are registered within the Employment Exchanges of Kangra District shall report exchange wise on the dates given in column No. 14. The column No. 18 of Annexure A-2 further provides that candidates must be registered with Employment Exchanges of Kangra District and should be a bona fide resident of Himachal Pradesh. No candidate should have more than one living wife, if married. The candidates who are disqualified in any respect will not be eligible to take up further tests.

9. The Annexure R-1 is the declaration of Petitioner dated 20.1.2006 declaring that he had not earlier appeared in the recruitment tests for the current recruitment process for the recruitment of Police Constables for 3rd IR Bn. and 1st IR Bn. during the year 2005 in any other District of Himachal Pradesh. He has understood that willful misrepresentation of any fact in the recruitment form would make him liable for disqualification and legal action at any stage.

10. In Annexure R-II, the Petitioner has given his permanent home address of village Ghurkari, Tehsil and District Kangra but has also given his present address C/o Sita Vats, House No. 175, Loran Post Office Dhalpur, Kullu. The name of Employment Exchange, Kullu has been shown in Annexure R-II. The Annexure R-II is dated 20.1.2006. The Petitioner has certified Annexure R-II as follows:

I certify that above details are correct to the best of my knowledge and belief and that I have not appeared for the recruitment for police constables this year in any other district of H.P. I understand that wilful misrepresentation of any fact will make me liable for disqualification and legal action at any stage.

11. The Petitioner has relied statement of Additional Director General (Administration) Annexure A-1 published in some newspapers. Annexure A-I provides that vacancies would be filled in on the basis of population of the Districts. It has also been provided in Annexure A-I that 58 constables are to be recruited from Kullu District and 202 constables from District Kangra etc. The Respondents in the reply have taken the stand that as per the policy of the

State, the recruitment was to be made on population percentage basis and, therefore, posts were distributed amongst the districts of the State as per the details given below:

Sr. No. Name of District Number of constables to be recruited on the basis of population Share out of 701 Share against Total No. of newly created 217 resultant Constables to be post vacancies recruited from each district.

1. Kinnaur 9 3 12
2. Shimla 83 26 109
3. Sirmaur 53 16 69
4. Solan 58 18 76
5. Bilaspur 39 12 51
6. Hamirpur 48 15 63
7. Mandi 104 32 136
8. Kullu 44 14 58
9. Lahaul and Spiti 4 1 5
10. Kangra 154 48 202
11. Chamba 53 16 69
12. Una 52 16 68
- Total 701 217 918

12. It is clear that as per the policy of the State Government, the constables were to be recruited on the basis of the population percentage of the districts in the State. The core issue which learned Counsel for the Petitioner has raised is that there is nothing on record which debars a candidate, who is permanent resident of one District from competing for recruitment for the post of constable in another District where he is registered with Employment Exchange, similarly there is nothing on record that a candidate who has competed in one district cannot compete again in another district for recruitment for the post of Constable. The Petitioner was registered in employment exchange in Kullu District when he competed in Kullu District. It has been contended on behalf of the Petitioner that the Petitioner was fully eligible for competing in Kullu District and the Petitioner was rightly selected but later on his candidature had been wrongly rejected without following the principles of natural justice.

13. It emerges from the material on record that a candidate was given opportunity to compete once in the recruitment process for the posts which were to be filled, this is clear from Annexure R-II where the candidate was required to certify that he had not appeared in the recruitment for police constables that

year in any other District in Himachal Pradesh and he understood that willful misrepresentation of any fact would make him liable for disqualification and legal action at any stage. The Petitioner has also correctly understood that he could compete only in one district and that is why he gave certificate to this effect on 20.1.2006 in Annexure R-II and separate declaration Annexure R-I.

14. The learned Counsel for the Petitioner has submitted that certificate given by the Petitioner in Annexure R-II is correct, there is no misrepresentation or falsehood in the said certificate. It has been submitted that the said certificate is dated 20.1.2006 and in the year 2006 the Petitioner had not appeared for the recruitment of Police Constables in any other District of Himachal Pradesh except District Kullu, therefore, no fault can be found with the certificate given by the Petitioner in Annexure R-II. The recruitment process had started in the year 2005 in the entire State for recruiting the Constables in two Reserve Battalions. The Annexure R-II is the form of recruitment for Constable. It is on printed form. It appears while printing the forms, the authorities were of the view that recruitment process would complete in the year 2005 itself but it could not be completed.

15. The Respondents in the reply have stated that due to administrative reasons it was not practicable to hold tests simultaneously, different dates were fixed for holding the tests in various Districts. The recruitment tests held in various Districts of the State on different dates for filling up 918 posts of constables were the part of same recruitment process and a candidate was not eligible to undergo the same test twice either at the same recruitment centre or at the different recruitment centre. The recruitment test was completed in Kangra District in the year 2005 itself but in Kullu District it was held in the year 2006.

16. There is no denial of the fact that in Kangra District and in Kullu District the recruitment was made for filling up the posts of Constables in two Reserved Battalions for which process was started in the year 2005. In declaration Annexure R-I, the Petitioner has clearly stated that he had not earlier appeared in the recruitment test for current recruitment process for recruitment of Police Constable for 3rd I.R. Battalion and 1st I.R. Battalion during the year 2005 in any other district of Himachal Pradesh. He has also stated that willful representation of any fact in the recruitment form will make him liable for disqualification and legal action at any stage. The Respondents bonafide accepted the certificate given by the Petitioner in Annexure R-II and declaration Annexure R-I both dated 20.1.2006.

17. The Petitioner was selected in Kullu District for the post of Constable. The certificate given by Petitioner in Annexure R-II and his declaration Annexure R-I are to be read collectively. On verification lateron, it was found that the Petitioner was rejected in Kangra District in the year 2005 in the same recruitment process, therefore, candidature of the Petitioner for Kullu District was cancelled. The cancellation of the candidature of the Petitioner for Kullu District is in accordance with the norms laid down and more particularly certificate given by the Petitioner

in Annexure R-II and declaration Annexure R-I which were later on found incorrect and false. The Petitioner was a candidate for disciplinary force where falsehood, misrepresentation has no place. The very start of the Petitioner started with falsehood, therefore, no fault can be found with the rejection of the candidature of the Petitioner in Kullu District for recruitment to the post of Constable.

18. The learned Counsel for the Petitioner has submitted that the cancellation of the candidature of the Petitioner as Constable after his selection is wrong, illegal on the basis of principle of natural justice. The Petitioner has not denied the certificate given by him in Annexure R-II, his declaration Annexure R-I and the fact that he appeared for selection in Kangra District prior to his participation for selection for the post of Constable in Kullu District. In Kangra District he was not selected. On these admitted facts, no further inquiry was required. Therefore, Petitioner cannot take shelter of violation of principle of natural justice.

19. The Petitioner in the petition has vaguely assailed district-wise recruitment of the Constables without detailing how district-wise recruitment of the Constables was wrong. The foundation for assailing district-wise recruitment of Constables is lacking in the petition. The Petitioner himself accepted the district-wise recruitment inasmuch as before participating in the recruitment in Kangra District or in Kullu District he did not challenge the district-wise recruitment. He challenged the rejection of the selection when it was found that he in contravention of the norms before competing in Kullu District had competed in Kangra District in the same recruitment process which started in the year 2005. In any case the Petitioner has not prayed for quashing policy of the State Government to recruit the Constables district-wise. Thus, seen from any angle, there is no merit in the petition.

20. No other point was urged.

21. The result of the above discussion, petition fails and is accordingly dismissed. No costs.