

(2015) 03 P&H CK 0168
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 362 of 2014 (O and M)

Gurpreet Singh and Others	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 18-03-2015

Acts Referred:

Citation : (2015) 03 P&H CK 0168

Hon'ble Judges : Rakesh Kumar Jain, J.

Bench : Single Bench

Advocate : R.K. Malik, Senior Advocate and Ramandeep Singh, for the Appellant; Anant Kataria, AAG, Advocates for the Respondent

Final Decision : Allowed

Judgement

Rakesh Kumar Jain, J.—The petitioners have challenged the order dated 10.12.2013 and have prayed that they may be considered for appointment as Constable from the date their batch mates have been appointed.

2. In short, 3726 posts of Constables (male) were advertised in the Punjab Police out of which 188 posts (male) were meant for District Jalandhar. Both the petitioners applied in District Jalandhar. There were total 104 posts (male) in the General category in which both the petitioners were at Serial No. 1 and 2 in the waiting list. Since two candidates of the General category did not accept the offer of appointment, the Commissioner of Police, Jalandhar requested the Director General of Police vide letter dated 8.10.2013 to give appointment to the candidates in the waiting list. The Director General of Police sought the information as to when those two candidates had declined their offer of appointment to which the Commissioner of Police Jalandhar, vide his letter dated 19.11.2013, replied that one candidate, namely, Balram Singh declined the offer on 17.7.2013 and the other candidate Rajinder Singh declined on 20.6.2013. However, the Director General of Police rejected the proposal of the Commissioner of Police, Jalandhar vide impugned order dated 10.12.2013 on the ground that six months have already been passed, therefore, the candidates

from the waiting list cannot be given the appointment. Counsel for the petitioners has submitted that if the Director General of Police has taken unnecessary time to take final decision on the request of the Commissioner of Police, Jalandhar, the petitioners should not be allowed to suffer and has further submitted that the offer of appointment has to be made to the candidates in the waiting list and the vacancy cannot be carried forward. It is further submitted that the selection was approved on 14.8.2012 and the offer was declined by Rajinder Singh on 20.6.2013 and Balram Singh on 17.7.2013 despite the fact that they did not come for joining their appointment, which should have been cancelled immediately, so that the period of six months provided in the instructions, for the life of the waiting list, should not have expired. In this regard, he has relied upon a decision of this Court in the case of LPA No. 1767 of 2012 titled as Ritu Vs. State of Haryana and others decided by the Division Bench on 4.3.2013.

3. In reply filed on behalf of respondents No. 1 to 3, the basic facts have not been denied and it is alleged that Rajinder Singh s/o Roor Singh and Balram Singh son of Joginder Singh submitted their self declaration on 20.6.2013 and 17.7.2013 that they have been appointed as Constable in other Districts and hence offered their refusal to join in office of Police Commissioner at Jalandhar. As a result thereof, the request was made by the Commissioner of Police, Jalandhar to the DGP vide letter dated 8.10.2013 that names of the present petitioners may be considered for appointment from the waiting list which has been rejected on the ground that as per Government instructions the waiting list survives for only six months from the date of original recommendations which had taken place in this case on 14.8.2012.

4. I have heard both the learned counsel for the parties and perused the record.

5. It is an admitted fact that the selection list was prepared and approved on 14.8.2012 in which both the petitioners were at Sr. No. 1 and 2 in the waiting list. Although it has not come on record as to when the offer of appointment was made to Balram Singh s/o Joginder Singh and Rajinder Singh s/o Roor Singh but it can be safely presumed that it must have been made immediately after their selection and they must have been asked to join within a stipulated time. It is also an admitted fact that they did not join. However, it has come on record that Balram Singh son of Joginder Singh submitted his self declaration on 17.7.2013 that he has already been appointed as Constable, Belt No. 1861/Jalandhar (Rural) in District, Jalandhar (Rural) and Rajinder Singh s/o Sh. Roor Singh submitted his self declaration on 20.6.2013 that he has been appointed in the Department of Intelligence wing. Their self declarations have been obtained by the department after the expiry of period of six months of the penal list and thereafter the letter was written by the Commissioner of Police, Jalandhar on 8.10.2013 for seeking permission to appoint the present petitioners in place of Balram Singh and Rajinder Singh which has been declined by the Director General of Police vide his impugned order dated 10.12.2013 only on the ground

that the waiting list was only for a period of six months and since it has expired, therefore, the candidates in the waiting list cannot be allowed to join.

6. In this regard, the decision relied upon by the petitioners in the case of Ritu (Supra) would come to their rescue because in that case also a similar controversy had arisen. In the case of Ritu (Supra), the Haryana Staff Selection Commission issued an advertisement No. 6/2006 inviting applications for filling up 405 posts of Hindi teachers. Out of 405 posts, 15 were reserved for Ex-servicemen (General) category out of which 5 posts were reserved for Ex-servicemen (General) Female category. The School Education Department received the recommendations from the Staff Selection Commission on 27.1.2010 in terms of which 5 candidates were recommended for the appointment against Ex-servicemen (General) Female category and the names of 2 candidates including that of Ritu was there in the waiting list. The offer of appointment was made to the 5 recommended candidates out of which one Manju Rani did not accept the offer and her candidature was cancelled on 12.1.2011 and the appointment was offered to Kamlesh Kumari, who was at Sr. No. 1 in the waiting list, on 28.1.2011 but she also did not accept the offer which was cancelled on 15.2.2011. Thus, Ritu being the second candidates in the waiting list staked her claim for appointment to the post of Hindi teacher by filing CWP No. 5980 of 2011 but her claim was rejected by the Single Judge on the reasoning that the validity of the waiting list in which the name of Ritu figured was to remain valid for one year from the date of recommendations made by the Haryana Staff Selection Commission and since that period had expired, therefore, she was not entitled for appointment. In LPA, the Division Bench had found that the recommendation of the Haryana Staff Selection Commission was refused by the Education Department on 27.1.2010. Offer of appointment was made to the five recommended candidates on 8.4.2010. Manju Rani was specifically asked to join the duties within 15 days, failing which the offer of appointment was treated as cancelled but the appointment of Manju Rani was cancelled after the period of 10 months vide order dated 12.1.2011, thereafter the offer of appointment was made to the first candidate in the waiting list namely, Kamlesh Kumari on 28.1.2011 which was also cancelled on account of not having been accepted on 15.2.2011. The Court had observed that had the appointment made to Manju Rani on 8.4.2010 been cancelled in April, 2010 and the appointing authority had not sat over the matter for a period of eight months, the offer could have been made to Kamlesh Rani and her acceptance or rejection could have been taken within the period of existence of the penal list but because of the inaction of the respondents/Department, the procedure could not be completed within a period of one year, during the operation of penal list, the candidate in the waiting list, namely, Ritu could not be made to suffer.

7. Similar are the facts of this case because in this case also had the respondents/department acted swiftly on account of non-joining of Balram Singh and Rajinder Singh within the period when the penal list was alive, the offer could have been made easily to the present petitioners, who are in the waiting

list but the respondents kept them on waiting list unnecessarily and relied upon the self declaration made by both Balram Singh and Rajinder Singh on 20.6.2013 and 17.7.2013, respectively but by that time the period of six months had already expired on 14.2.2013, therefore, the rights of the present petitioners for their consideration has been seriously prejudiced, defeating the very objective for which the waiting list was prepared in which their names were there at Sr. No. 1 and 2.

8. In view thereof, I am of the considered opinion that because of the inaction on the part of the respondents in not acting within a reasonable time frame when the waiting list was in existence especially when Balram Singh and Rajinder Singh did not join, despite offer of appointment, the respondents should have cancelled their appointment and offered the appointment to the petitioners in the waiting list. Thus, the inaction on the part of the appointing authority for not cancelling the appointment of Balram Singh and Rajinder Singh in time and not offering the appointment to the present petitioners is arbitrary, unreasonable and unjustified.

9. As a result thereof, the present writ petition is hereby allowed, impugned order is quashed and the respondents are directed to offer appointment to both the present petitioners to the posts to which they have applied and kept in waiting list at Sr. No. 1 and 2, within a period of two months from the date of receipt of certified copy of this order.