

**(2011) 06 SHI CK 0253**  
**In the High Court Of Himachal Pradesh**  
**Case No : LPA No. 188 of 2011**

Kripal Singh and Others

APPELLANT

Vs

Ramesh Kumar and Others

RESPONDENT

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**Date of Decision :** 30-06-2011

**Acts Referred:**

**Citation :** (2011) 06 SHI CK 0253

**Hon'ble Judges :** Kurian Joseph, C.J;V.K. Sharma, J

**Bench :** Division Bench

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## Judgement

Kurian Joseph, C.J.—The Appellants have approached this Court challenging the correctness of the judgment dated 23.3.2011 in CWP No. 6320 of 2010. The issue pertains to selection for appointment as Constables from amongst the Home-Guard volunteers. The learned Single Judge, allowed the Writ Petition holding that the writ Petitioners were eligible and entitled to participate in the selection process since their applications were filed within time. Aggrieved, the private Respondents have come up in appeal. It is the contention of the Appellants that the private Respondents were not eligible in terms of the original date fixed for submission of the application and they became qualified only on the subsequent date as fixed by way of corrigendum. Learned Single Judge on perusing the records came to the conclusion that the last date was fixed for submission of the application uniformly and it was not fixed thus so as to give any un-due advantage to anybody. Be that as it may. When the matter came up for admission hearing before this Court, on 23.6.2011, we passed the following order:

At the time of hearing, it is brought to the notice of this Court that initially the number of vacancies to the post of constables for 6th Indian Reserved Battalion were only 1309. For District Mandi posts were 178. It is submitted that as on today in Mandi there could be many more vacancies and if that be so there is a chance of the Appellants as well as of the private Respondents being inducted as per their merit. Learned Additional Advocate General seeks time to get

instructions regarding the vacancy position as to the chance of the Appellants also getting in. It will be open to the competent authority to file an affidavit in that regard.

2. Learned Addl. Advocate General, on instruction submits that there are no vacancies available for accommodating the Appellants in Mandi District. It is also submitted that the first Appellant has still time left in service for participating in future selection and that the next selection is slated to be held on 5th July, 2011. As far as Appellants No. 2 to 4, 6 & 7 are concerned, they are now overaged. Appellants No. 5 & 8 have already been selected. In the peculiar facts and circumstances of this case, it is submitted that in case the Appellants submit an appropriate representation before the Director General of Police, the same would be considered, subject to the Appellants fulfilling other requirements by way of passing the written examination and physical efficiency test. This appeal is hence disposed of holding that there is no legal infirmity in the judgment of the learned Single Judge and therefore, the proforma Respondents are free to proceed with the selection already conducted, in terms of the judgment. As far as Appellants No. 2 to 4, 6 & 7 are concerned, they may file appropriate representations before the first Respondent within a period of one month from today, in which case, in view of the peculiar fact situation of the Appellants that they have already crossed the age-limit, a lenient view will be taken by the first Respondent in also granting the relaxation in age as has been done in the past. However, it is made clear that the Appellants shall have to clear the physical efficiency test as also the written test. Needless also to say that the consideration, as above, is only in respect of the vacancies arising in future and not against the selection already conducted.

3. Learned Senior Counsel Mr. Sharma, appearing for the private Respondents submit that their training has been delayed only on account of the pendency of the appeal and hence in the peculiar facts and circumstances of this case, inter-se seniority may be directed to be decided on the basis of their rank in the select list. It is certainly a matter for the first proforma Respondent to consider. Accordingly, there will be a direction to the first proforma Respondent 3 to look into the matter and take appropriate action in the light of the observations made herein above and pass appropriate orders within a month.

4. The interim order dated 25.5.2011 is vacated. The private Respondents shall be forthwith sent for training and the appeal is accordingly, disposed of, so also the pending application(s), if any.