
(2025) 12 P&H CK 1985

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 10007 Of 1999 (O&M)

Surjit Singh

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 24-12-2025

Acts Referred:

Constitution Of India, 1950 — Article 226, 227

Citation : (2025) 12 P&H CK 1985

Hon'ble Judges : Namit Kumar, J

Bench : Single Bench

Advocate : M.S. Khaira, Jaswinder Singh, Satnampreet Singh Chauhan, R.K. Malik, Kartikey Chaudhary

Final Decision : Dismissed

Judgement

Namit Kumar , J

1. The instant petition has been filed by the petitioner under Articles 226 and 227 of the constitution of India, seeking a writ of certiorari challenging the selection of respondent No.4 as Kanungo from amongst the quota fixed for handicapped category and for issuance of a writ of mandamus directing respondent Nos.1 and 2 to send the petitioner for training as Kanungo against the reserved quota for handicapped persons.

2. The brief facts as have been pleaded in the present petition are that the petitioner, who is a handicapped person and suffering from 45% disability, is a graduate from Punjabi University, Patiala. He was also an NCC cadet. The Government of Punjab, Department of Social Security, Women and Child Development, issued notification dated 11.12.1997 (Annexure P-4), directing all the Heads of Departments to complete the backlog of recruitment of physically handicapped persons against their 3% reservation quota under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. In furtherance to the said instructions of the Government of Punjab, the

Employment Officer-Deputy Director, Special Employment Officer (for Disabilities), Ludhiana sent a letter for appearing in the test and interview to be held on 15.04.1999 for the post of Kanungo. Though the petitioner had appeared in the test as well as in the interview, at Sr. No.12, but no announcement regarding result of test or interview was made, however, on persistent enquiry from the office of Deputy Commissioner, Faridkot, the petitioner came to know that respondent No.4 was selected as 'Kanungo' and sent for training by the Deputy Commissioner, Faridkot and he joined as such on 03.05.1999. It has also been pleaded that respondent No.4 is neither handicapped nor suffers from disability, but has wrongly been sent for training by the Deputy Commissioner and his name was not sponsored by the Special Employment Officer (for Disabilities), Ludhiana and he had not appeared in the test or interview on 15.04.1999. In nutshell, it has been pleaded that respondent No.4 has not gone and recruited through any selection process either in 'general category' or in 'physically handicapped category', and therefore, his selection and appointment made to the post of Kanungo is liable to be set aside.

3. Separate written statements have been filed on behalf of respondents No. 1 to 3 and 4.

4. In the written statement filed on behalf of respondents No.1 to 3, it has been stated that respondent No.4 is a handicapped person, as per certificate bearing No.109 dated 22.02.1995 (Annexure P-18), issued by the Civil Surgeon, Faridkot, which reports his disability as 45%. An advertisement was published in the newspaper inviting applications for appointment to the post of Kanungo, in pursuant thereto, name of respondent No.4-Avtar Singh was duly sponsored by the District Employment Officer, Faridkot. After due consideration of the eligible candidates, a written test and interview were conducted on 15.04.1999. Respondent No.4 appeared in the written test at Sr. No.21 and in the interview at Sr. No.4 on same date. Upon evaluation, respondent No.4 secured the highest marks in the written test as well as in the interview and was accordingly selected after verification of all relevant facts pertaining to his eligibility, whereas, the petitioner secured lesser marks in both the written test and the interview. Moreover, the petitioner's date of birth is 04.04.1957, and, as such, he was over-aged and ineligible for appointment to the post in question.

5. In the written statement filed by respondent No.4 (selected candidate)-Avtar Singh, it has been stated that the Deputy Commissioner, Faridkot-respondent No.2, issued an advertisement dated 24.03.1999 (Annexure R-4/1), inviting applications for one post of Kanungo meant for handicapped category. As per the advertisement, the age of the candidates was to be between 18 to 30 years and for handicapped category, 10 years relaxation as per notification dated 24.01.1979 (Annexure P-10) was admissible and, therefore, the maximum age limit for Persons with Disabilities was 40 years. The petitioner's date of birth, as per Matriculation Certificate, is 04.04.1957 therefore, on the date of advertisement i.e. 24.03.1999, he was aged about 42 years, as such, he was

ineligible to be considered for appointment to the post of Kanungo meant for physically handicapped person. Therefore, the petitioner has no locus standi to challenge the selection and appointment of respondent No.4. It has further been stated that the petitioner has suppressed the material facts in the writ petition as he has not attached his matriculation certificate, wherein his date of birth has been mentioned as 04.04.1957. It has further been stated that respondent No.4 had duly appeared in test and interview on 15.04.1999, after his name was recommended by the District Employment Officer Faridkot and he is a Physically Handicapped Person and was medically examined by Assistant Civil Surgeon, Faridkot, who certified his case to be of 'Neglected CTEV(L) with Operated CTEV(R) Foot assessing his Disability as 45%.

6. Earlier, the present writ petition was allowed vide judgement dated 17.05.2012 by a Coordinate Bench of this Court by observing that Annexure R-2, which is a list of the candidates sponsored by the Employment Exchange, is not a genuine document and is a doctored one, as in the original record only 20 candidates were sponsored, vide letter No.PH-7/1999 dated 05.04.1999, whereas in the document (Annexure R-2) annexed with the written statement, names of 21 candidates, including that of respondent No.4, have been shown to be sponsored. On the basis of the said finding, selection and appointment of respondent No.4 was set aside and next available candidate in order of merit was ordered to be appointed. Thereafter, respondent No.4 filed Review Application No.277 of 2012 in judgment dated 17.05.2012 passed in CWP No.10007 of 1999, however, the same was dismissed by the learned Single Judge, vide order dated 01.06.2012. The above-said judgement dated 17.05.2012 and order dated 01.06.2012 were challenged by respondent No.4 by way of filing LPA No.867 of 2012 before a Division Bench of this Court and while hearing the said appeal, it was observed by the Division Bench that appellant/respondent No.4 had remained unrepresented before the learned Single Judge, and, therefore, all the correct facts could not be brought to the notice of the Court and keeping in view the above, the judgement dated 17.05.2012 and order dated 01.06.2012 passed by the learned Single Judge, were set aside and the matter was remitted to the learned Single Judge for fresh adjudication on merits and parties were given liberty to supplement the proceedings by placing on record relevant documents.

7. In compliance to the directions of the Division Bench, the matter was listed before the Bench, as per roster, and respondent No.4 filed additional affidavit dated 31.07.2023 bringing on record additional facts and documents and the relevant portion from the said affidavit reads as under:-

"1) That in nutshell controversy in the present case is as under:-

The respondent department has advertised one post of Kanungo meant for Handicapped category in the Newspaper on 24.3.1999 and the applications were also invited from various Employment Exchanges. The name of the respondent no. 4 was registered in Employment Exchange, Faridkot. The Employment Exchange Faridkot has sponsored the names of 20 candidates vide letter no. OC-

P? ?? ??-7/99/-1828 dated 7.4.1999 to the Deputy Commissioner, Faridkot and the said letter was shown to be dispatched dasti vide diary no. 1828 dated 7.4.1999. The said employment exchange also sponsored the name of one candidate i.e. respondent no.4 vide letter no, OC PH 7/99/1910 dated 9.4.1999 and the said letter was also dispatched vide diary no.1910 dated 9.4.1999 as a supplementary list to the Deputy Commissioner, Faridkot. The written test was held after 11.00 a.m. on 15.4.1999 and on the same date interview was held and the respondent no.4 was selected being at no. 1 in order of merit and joined as Kanungo on 27.4.1999 and continuing since then. The respondent no. 4 has cleared the Departmental Examination for the post of Kanungo as well as Naib Tehsildar and was given the current duty charge of Naib Tehsildar in the month of August 2012 and was regularized as Naib Tehsildar in September, 2019 and continuing as Naib Tehsildar

2. That although the Employment Exchange, Faridkot has sponsored the names of 20 candidates vide letter no. OC PH OC ??-7/99/-1828 dated 7.4.1999, copy attached as Annexure R-4/5 and said letter was dispatched by the Employment Exchange vide diary no. 1828 dated 7.4.1999, copy of which is attached as Annexure R-4/6. The name of the respondent no.4 was sponsored by the Employment Exchange Faridkot vide letter no. OC PH-7/99/1910 dated 9.4.1999, copy of which is attached as Annexure R-4/7, and the said letter was dispatched vide diary no. 1910 dated 9.4.1999, copy attached as Annexure R-4/8 as a supplementary list.

3. That it is further necessary to mention here that the respondent no.4 was informed by the Employment Exchange vide diary no. 1885 dated 9.4.1999 that he has to appear before the Deputy Commissioner, Faridkot on 15.4.1999 for written test and interview. But the said letter was not received by the respondent no.4 and when the respondent no.4 came to know through News Paper that interview date has been fixed for 15.4.1999, so he had obtained the duplicate copy of letter no. 1885 dated 9.4.1999 on 15.4.1999.

4. That the respondent no.4 had appeared in the written test after 11.00 a.m. on 15.4.1999 and all those candidates who had appeared in the written test, their signatures were obtained. The signature of the respondent no.4 was also obtained on 15.4.1999 at sr. no. 21, copy of which is attached as Annexure R-4/9, Thereafter the respondent no.4 had appeared for interview on the same date at sr. no 4, copy of which is attached as Annexure R4/10 and the respondent no.4 had obtained highest marks in written test and interview i.e. 125 and being highest merit, he was offered appointment and joined as Kanungo on 27.4.1999 and working for the last more than 24 years.

5. That the official respondents have committed a mistake while filing written statement that instead of attaching both the letters dated 7.4.1999 and 9.4.1999 by which names of 20 candidates were sponsored vide letter dated 7.4.1999 and name of the respondent no.4 alone was sponsored vide letter dated 9.4.1999, the department has attached one list i.e. R-2 showing the names of all 21

candidates whose names had been sponsored by the Employment Exchange Faridkot

6. That it is necessary to mention here that the post was also advertised in the News paper and two candidates had applied directly to the Deputy Commissioner, Faridkot and the claim of all candidates were considered who had applied directly or whose names have been sponsored by various employment exchanges and the written test was held on 15.4.1999 and those who appeared in the written test were called for interview on the same date. Those candidates who had appeared in the written test, their signatures were also obtained and the signature of the respondent no.4 is at sr. no. 21 as clear from R-4/8 and the respondent no.4 who had obtained highest marks i.e. 125, hence selected/appointed and joined on 27.4.1999 and since then the respondent no.4 is working as Kanungo/Naib Tehsildar. The respondent no.4 has also qualified all departmental examinations meant for the post of Kanungo/Naib Tehsildar. Even the respondent no. 4 was awarded a appreciation certificate on 15.8.2015 by the Deputy Commissioner, Bathinda.

7. That the respondent no.4 is only sufferer because the employment exchange, Faridkot has sponsored the names of 20 candidates vide letter no. OC PH OC No.-7/99/-1828 dated 7.4.1999 and the said letter was dispatched vide diary no. 1828 dated 7.4.1999. The name of the respondent no.4 was sponsored vide letter no. OC PH-7/99/1910 dated 9.4.1999 and said letter was dispatched vide diary no. 1910 dated 9.4.1999 as supplementary list. If the department would have given the details of both the letters then there would have no confusion. What inadvertent mistake the department has committed is that instead of attaching both the letters by which the names were sponsored, the department has made a joint list of 21 candidates as R-2. So the respondent no.4 should not suffer because of the said inadvertent mistake of the respondent department

8. That undisputed facts are that the Deputy Commissioner (Collector), Faridkot had advertised the post of Kanungo meant for handicapped category vide advertisement dated 24.3.1999 and demand was also sent to various employment exchanges. Although the name of the respondent no.4 was recommended by the employment exchange, Faridkot in a supplementary list on 9.4.1999 and those candidates whose names were not sponsored by the employment exchanges and directly applied to the Deputy Commissioner (Collector), Faridkot and their claims were also considered for selection and appointment. It is not remotely the case of the petitioner that the respondent no.4 has not appeared in the written test as well as in interview and selected being highest in merit. So in these circumstances the selection and appointment of the respondent no. 4 does not suffer any infirmity

9. That the respondent no.4 was examined by Civil Surgeon, Faridkot on 22.2.1995 and found 45% disability. Even the said medical certificate was duly enquired into by the Assistant Commissioner, Faridkot, and Civil Surgeon, Faridkot has certified that handicapped certificate dated 22.2.1995 has duly been

issued by the office of Civil Surgeon, Faridkot. The said report is already on record as Annexure R-4/4. At the instance of the petitioner the respondent no. 4 was again examined by the Medical Board and report to this effect dated 30.4.2001 is attached as Annexure R-4/11. At the instance of petitioner Surjit Singh matter was referred to the Vigilance Department and the Vigilance Department hold enquiry in the year 2005 and the same has been filed, copy of which is attached as Annexure R-4/12. At the instance of the petitioner the respondent no.4 again medically examined by the Medical Board on 30.10.2015. The copy of the medical report of the Medical Board dated 30.10.2015 to this effect is attached as Annexure R-4/13. Even the Vigilance enquiry was again closed vide letter dated 28.3.2016, copy of which is attached as Annexure R-4/14 Again enquiry was conducted by Deputy Commissioner, Faridkot and in the said enquiry answering respondent was again medically examined by the Medical Board on 24.08.2017. The copy of the report of the medical board dated 24.08.2017 is enclosed as Annexure R-4/15. So the respondent no.4 was medically examined from time to time and found that he was , having more than 40% handicapness and rightly selected and appointed and the appointment of the respondent no.4 does not suffer any infirmity."

8. Mr. M.S. Khaira, learned Senior Counsel for the petitioner, submitted that respondent No.4 did not apply for the post of Kanungo either in the general category or in physically handicapped category. His name was never sponsored by the District Employment Exchange, Faridkot, as names of only 20 candidates were sponsored vide letter dated 05.04.1999. He further submitted that letter dated 09.04.1999, whereby the name of respondent No.4, was alleged to have been sponsored, is not a genuine document and neither he has appeared in the written test nor in the interview, therefore, his selection is not as per rules and criteria. He further submitted that respondent No.4 is a resident of village falling in District Bathinda, however, the certificate showing his physical disability has been issued by Civil Surgeon, Faridkot, whereby his disability has been assessed at 45%. Therefore, his selection and appointment is liable to be set aside.

9. Per contra, the learned State counsel has submitted that, vide letter No.PH-7/1999 dated 05.04.1999, though names of 20 candidates were sponsored by the Employment Exchange, Faridkot, however, name of respondent No.4 was also sponsored vide Diary No.1910 dated 09.04.1999. He further submitted that besides the petitioner and respondent No.4, 02 more candidates had applied in pursuance to the advertisement dated 24.03.1999 and all these candidates had appeared in the written test and interview held on 15.04.1999, however, respondent No.4 secured the highest marks in the written test and interview and, therefore, he was selected and given appointment as 'Kanungo'. He further submitted that while filing the written statement on behalf of respondents No.1 to 3, instead of attaching both the letters dated 05.04.1999 and 09.04.1999 separately, inadvertently, both the letters were attached jointly as one list (Annexure R-2), showing the names of 21 candidates, whose names were sponsored by the Employment Exchange. Therefore, the selection and

appointment of respondent No.4 is valid and as per rules, and does not call for any interference by this Court.

10. Mr. R.K. Malik, learned Senior Counsel appearing for respondent No.4, submitted that respondent No.4, having disability of 45%, was fully eligible for the post in question and his name was duly sponsored by the Employment Exchange, Faridkot, vide letter dated 09.04.1999. He, along with other candidates, had appeared in the written test and interview held on 15.04.1999 and having secured highest marks, was selected for the post of 'Kanungo'. He further submitted that when selection process of respondent No.4 was set aside by a Coordinate Bench of this Court, vide judgment dated 17.05.2012, he had remained unrepresented before the Court and, therefore, all the necessary facts were not brought to the notice of the Court. He further submitted that his name was separately sponsored on 09.04.1999 (Annexure R-4/8). He further submitted that the petitioner has no locus standi to challenge the selection and appointment of respondent No.4, as he himself was ineligible as his date of birth is 04.04.1957 and was of the age of 42 years, when his name was sponsored by the Employment Exchange, as the upper age limit for consideration for the said post under handicapped category was 40 years, as per advertisement dated 24.03.1999 (Annexure R-4/1). He also submitted that the genuinity of the physically handicapped certificate of respondent No.4 has been got examined from PGI, Chandigarh on various occasions, and the same has been found to be genuine and authentic as well.

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

12. The questions which arise for the determination of this Court in present case are :-

(i) As to whether the Petitioner has locus standi to file the present petition?

(ii) As to whether Respondent No.4 was a person with physical disability against the selection criteria of the post in question?

(iii) As to whether name of Respondent No.4 was sponsored by the District Employment Exchange, Faridkot, against advertised post in question?

(iv) As to whether the selection and appointment of Respondent No.4 to the post of Kanungo, is legal, valid or not?

13. Firstly, while dealing with the objection raised by learned Senior Counsel for respondent No.4 with regard to locus standi of the petitioner in challenging the selection and appointment of respondent No.4 is concerned, it may be noticed that the petitioner was one of the candidates whose name was sponsored by the Employment Exchange and he appeared in the written examination and interview held on 15.04.1999. Once his candidature has been considered, it cannot be opined that the petitioner has no locus standi to file the present writ petition challenging the selection and appointment of respondent No.4. So far as the

issue qua ineligibility of the petitioner on account of being over-aged is concerned, it was required to be considered by the Employment Exchange or the competent authority at the time of sponsoring his name, however, having appeared in the selection process, he can always challenge the selection and appointment of the selected candidate.

14. Admittedly, for filling up one post of Kanungo belonging to physically handicapped category, the respondent-department had issued advertisement in the newspaper on 24.03.1999 and applications were also invited from various Employment Exchanges. The name of respondent No.4 was registered in Employment Exchange, Faridkot. The Employment Exchange, Faridkot, sponsored the names of 20 candidates vide letter No.OC-PH OC No.7/99/-1828 dated 07.04.1999 to the Deputy Commissioner, Faridkot and the said letter was shown to be dispatched dasti, vide diary No.1828 dated 07.04.1999. The said employment exchange also sponsored the name of respondent No.4 vide letter No.OC PH-7/99/1910 dated 09.04.1999 and the said letter was also dispatched vide diary No.1910 dated 09.04.1999 as a supplementary list to the Deputy Commissioner, Faridkot. The written test was held after 11.00 a.m. on 15.04.1999 and on the same date interview was held and respondent No.4 was selected being in order of merit at Sr. No.1 having secured highest marks and joined as 'Kanungo' on 27.04.1999. After passing departmental examination for the post of Kanungo, he was given current duty charge of the post of Naib Tehsildar in August, 2012 and was regularly promoted on the said post in September, 2019 and is continuing as such. Although the official respondents have committed a mistake while filing written statement that instead of attaching both the letters dated 07.04.1999 and 09.04.1999 separately, by which names of 20 candidates were sponsored vide letter 07.04.1999 and name of respondent No.4 only was sponsored vide letter dated 09.04.1999, the department has attached only one list i.e. Annexure R-2 showing the names of all 21 candidates, whose names had been sponsored by the Employment Exchange, Faridkot, instead of attaching two separate lists. Except this irregularity, there is no other incriminating material and cogen substance to substantiate that the selection of respondent No.4 is not legal and valid, since he had scored highest marks in the written test and interview, and was selected as Kanungo against the advertised post under the Physically Handicapped Category fulfilling all the criteria.

15. So far as the contentions raised by learned Senior counsel for the petitioner that respondent No.4 is a resident of Village Chathewala, District Bathinda, and whereas his physically handicapped certificate has been issued by Civil Surgeon, Faridkot, is concerned, it has been explained by respondent No.4 in the reply to CM-13775 of 2024 that when respondent No.4 was examined for the first time on 22.02.1995, his family was living in Faridkot, although his native village falls in District Bathinda, but due to domestic problems, unhealthy relations between his parents and other unavoidable circumstances, he was staying with his mother at Faridkot. Even in the year 1999 since he was residing in Faridkot, he got his name registered in the Employment Exchange, Faridkot. Further, respondent

No.4 was examined by Civil Surgeon, Faridkot, on 22.02.1995 and he was found to be 45% disabled. The said medical certificate was duly inquired into by the Assistant Commissioner, Faridkot, from the Civil Surgeon, Faridkot, and it was certified that Physical Disability Certificate dated 22.02.1995 has duly been issued by the office of Civil Surgeon, Faridkot, as is clear from Annexure P-18. He was again examined by medical board and report to this effect dated 30.04.2001 was issued, which also certifies that respondent No.4 was found to be 45% handicapped. The petitioner also made a complaint to the Vigilance Department, Punjab, with regard to the genuineness of the physically handicapped certificate of respondent No.4 and the Vigilance Department also held an inquiry in the year 2005 and the complaint filed by the petitioner was filed on 31.10.2005 (Annexure R-4/12). He was again examined by the medical board on 24.08.2017 and his permanent disability was assessed at 46%. His medical certificate has also been found to be genuine by the PGIMER, Chandigarh, vide letter dated 10.10.2023 issued by the Special Medical Board (Disability), PGIMER, Chandigarh.

In view of the above, the issue qua genuineness and authenticity of the Disability Certificate in question goes in favour of respondent No.4, since its correctness has been got checked from multiple authorities that too, time and again and, therefore, this Court is of the considered opinion that respondent No.4 was a Person with Disability fulfilling the selection criteria of advertised post in question and his name was duly sponsored by the District Employment Exchange and, therefore, his selection to the post of 'Kanungo' is legal and valid, and at this fag end of his service, where he has served the State for 26 years (approximately), his appointment cannot be ordinarily interfered without any justifiable reason

16. In view of the above, there is no merit in the present writ petition, therefore, the same is hereby dismissed with no order as to costs.

17. Pending applications, if any, stand disposed of.