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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No. 29141-2025 (O&M)
Date of Decision:19.11.2025**

Chandandeep Singh

....Petitioner

VS.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Ranjit Singh Kalra, Advocate
Ms. Mona Yadav, Advocate
for the petitioner

Mr. Aman Dhir, DAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of show cause notice dated 06.05.2025 whereby respondent has called upon him to show cause as to why he should not be terminated from service.

2. The petitioner participated in the recruitment process and came to be selected as Constable in November' 2016. He was selected in the category of Freedom Fighter. The respondent, at a later stage, found that petitioner's great grandfather Late Shingara Singh was a Freedom Fighter

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and his grandfather was Labh Singh. As per terms and conditions of the recruitment, benefit of Freedom Fighter Category is available up to grandson of a Freedom Fighter. Deputy Superintendent of Police, Pathankot conducted an inquiry and found that Freedom Fighter Certificate enclosed by the petitioner during recruitment was issued to Lakhwinder Singh i.e. father of the petitioner. The Director General of Police ('DGP'), Punjab vide letter dated 25.08.2023 asked the Authorities below to issue show cause notice to the petitioner for termination. A show cause notice dated 09.12.2023 was issued to the petitioner. He filed CWP No.29141 of 2023 which was allowed vide order dated 21.12.2023 with liberty to competent authority to issue fresh show cause notice without being influenced by observations of DGP, Punjab and of this Court. The Commissioner of Police, Amritsar has issued impugned show cause notice.

3. Counsel for the petitioner submits that petitioner submitted certificate which was available with him. The said certificate was not a forged piece of document. The certificate was duly considered by Selection Committee. In the reply, Selection Committee has conceded that certificate submitted by petitioner was considered, however, they were not aware that great grandson of a freedom fighter is ineligible for reservation. They were not having relevant instructions, thus, accepted certificate submitted by petitioner. The mistake, if any, was on the part of Selection Committee. The petitioner has already completed nine years service. There is no adverse report against him. He is neither involved in any criminal activity nor was ever found guilty of misconduct during these years. His claim is squarely covered by judgment of Hon'ble Supreme Court in ***Dr. M.S. Mudhol vs.***

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Shri S.D. Halegkar, 1993 (3) SCC 591 and of this Court in *Varinder Hans vs. Union of India, 2019 (4) S.C.T. 513*.

4. *Per contra*, learned State counsel submits that as per advertisement, the candidates were supposed to seek reservation as per instructions and Standing Order. In the Standing Order, it was clearly mentioned that wards of freedom fighters would be entitled to reservation. It was also clarified in the Standing Order that son, daughter, grandson and granddaughter of freedom fighter would be entitled to benefit of reservation. It was incorporated that benefit would be available to wards of those freedom fighters who have either been granted a freedom fighters pension or Tamar Patra. The Deputy Commissioner of District to which a freedom fighter belongs will be the competent authority to provide eligibility certificate to this effect. The petitioner may not be guilty of fraud or misrepresentation, however, he is not entitled to benefit of reservation. He, even at this stage, cannot claim that he was eligible for reservation. He wrongly availed benefit and irregularity committed by him or by authorities cannot be regularised on the ground that he has already served for nine years.

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

6. From the perusal of record, it is evident that petitioner pursuant to advertisement dated 31.05.2016 applied for the post of Constable. In the advertisement, provision for reservation was made. Clause 5 of the advertisement provided that as per instructions of State Government, there would be reservation for Scheduled Castes/Scheduled Tribes, Ex-servicemen



and wards of Freedom Fighters. Clause 20 provided for General Instructions to the candidates. As per Sub Clause (viii) and (ix) of Clause 20, candidates were advised to go through guidelines/instructions for filling up application form. They were also advised to go through Standing Order No. 1 of 2016 of Director General of Police governing recruitment process. For the ready reference, Clause 5 and Sub Clauses (viii) and (ix) of Clause 20 of the advertisement are reproduced as below:-

“5. RESERVATION OF SEATS

According to instructions issued by the Punjab Government from time to time, 21% of available vacancies will stand reserved for candidates belonging to Scheduled Castes/Scheduled Tribes, 10% for candidates belonging to Backward Classes, 13% seats for Ex-Servicemen candidates OR wife/one dependent child of Ex-Servicemen, (where applicable); [of which 7% Ex-servicemen (General), 4% Ex-servicemen (SC), 2% Ex-servicemen (BC)]. In addition, 2% of seats are reserved for wards of Police Personnel and 1% seats for wards of Freedom Fighters.

As per government instructions, recruitment against 3% vacancies reserved for sports persons shall be carried out separately for which a separate advertisement shall be given by the Sports department of Punjab. The vacancies equivalent to 3% have been deducted from the total number of vacancies and recruitment would be done against the remaining vacancies,. However, the sportspersons are eligible to apply here also but no extra benefit/reservation shall be admissible to them on the basis of their achievements in Sports.”

20 GENERAL INSTRUCTIONS TO THE CANDIDATES



xxxx

xxxx

xxxx

(viii) Candidates are advised to go through the guidelines/instructions for filling up the Application Form online as well as the Standing Order (SO) of the office of Director General of Police vide no. # 1 of 2016, which is the governing document for the Recruitment process (2016) of constables in Punjab Police. The Standing Order contains detailed criteria/eligibility conditions, etc., which is available on the recruitment website (www.punjabpolice recruitment.in).

(ix) The candidates can also download/print the copies of guidelines/instructions as well as the Standing Order from the website.”

7. Standing Order No. 1 of 2016 issued by Director General of Police, Punjab provided for Reservation Policy which included reservation for wards of Freedom Fighters. Relevant extracts of Standing Order read as:-

“Son, Daughter, Grandson and Granddaughter of Freedom Fighter-Wards of those Freedom Fighters will be eligible for reservation who have either been granted a Freedom Fighters pension from the Punjab Govt. or have been awarded Tamra Patras for their political sufferings during pre-independence Freedom movements. The Deputy Commissioner of District to which a Freedom Fighter belongs will be the only competent authority to provide an eligibility certificate to this effect, i.e. for the grant of all types of those concessions to a Freedom Fighter or his/her wards.”

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8. The petitioner claimed reservation as ward of Freedom Fighter. For the said purpose, he submitted certificate dated 24.06.2006 issued by Deputy Commissioner, Amritsar. The said Certificate was issued to his father. The certificate dated 24.06.2004 reads as:-

“ Office of the Deputy Commissioner, Amritsar
(L.F.A. Branch)

Freedom Fighter Certificate

*Certified that Lakhwinder Singh s/o Sh. Labh Singh
R/o Village Dudhrai, Tehsil Ajnala, District Amritsar, is the
real Grand son (Potra) of Late Sh. Shangara Singh s/o
Sh.Mangal Singh who was the recognized freedom fighter of
Amritsar District.*

*This Certificate has been issued on the
verification of Sub Divisional Magistrate Ajnala vide his
report No. SDC-2/1815/dated 9- 6-2004 and on the basis of
pension payment Order No. 4732/FF/PB of Late Sh.
Shangara Singh s/o Sh. Mangal Singh Freedom Fighter of
Amritsar District.*

No. L.F.A. 286

Dated: 24-6-04

sd/-

Deputy Commissioner

Amritsar.”

9. The petitioner is claiming that there was no fraud, misrepresentation or misfeasance on his part and he submitted Certificate which was available with him. A Committee of officers scrutinized his Certificate. Members of the Committee, as per reply filed by State, are conceding that they were not aware of Standing Order. If the Members of the Committee were unaware, it is highly improbable to believe that petitioner was aware of the fact that he was not entitled to benefit of reservation. He had acted in a *bona fide* manner and has already served for

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more than nine years, thus, at this belated stage, he should not be discharged/relieved from service.

10. A conspectus of Standing Order and advertisement reveals that wards of freedom fighter were required to submit certificate issued by Deputy Commissioner. The petitioner submitted Certificate dated 24.06.2004 issued by Deputy Commissioner. It is nobody's case that certificate was simply disclosing that Sh. Shingara Singh son of Mangal Singh was a freedom fighter. The certificate certified that Lakhwinder Singh is grandson of Shingara Singh who was a freedom fighter. It means the petitioner submitted a certificate claiming reservation which was not issued to him.

11. The petitioner is relying upon judgments of Hon'ble Supreme Court in *Dr. M.S. Mudhol (Supra)* and of this Court in *Varinder Hans (Supra)* as well as *Sarabjeet Kaur Dhaliwal v. Punjab Agricultural University, Ludhiana, 2003 (4) S.C.T. 132*.

Supreme Court in *Dr. M.S. Mudhoi (Supra)* in para 6 has clearly held that there was no fault on the part of candidate and fault was on the part of Director of Education in illegally approving the appointment although candidate did not have requisite academic qualification. Considering the length of service i.e. 12 years and the fact that there was no lapse on the part of candidate, Hon'ble Court directed the respondents to permit the candidate to remain in service. Para 6 of the judgment reads as:-



“6. Since we find that it was the default on the part of the 2nd respondent, Director of Education in illegally approving the appointment of the first respondent in 1981 although he did not have the requisite academic qualifications as a result of which the 1st respondent has continued to hold the said post for the last 12 years now, it would be inadvisable to disturb him from the said post at this late stage particularly when he was not at fault when his selection was made. There is nothing on record to show that he had at that time projected his qualifications other than what he possessed. If, therefore, in spite of placing all his cards before the selection committee, the selection committee for some reason or the other had thought it fit to choose him for the post and the 2nd respondent had chosen to acquiesce in the appointment, it would be inequitable to make him suffer for the same now. Illegality, if any, was committed by the selection committee and the 2nd respondent. They are alone to be blamed for the same.”

12. **Varinder Hans (Supra)** and **Sarabjeet Kaur Dhaliwal (Supra)** are based upon judgment of Hon’ble Supreme Court in **Dr. M.S. Mudhoi (Supra)**. In these cases, this Court has held that there was no fraud on the part of petitioners and documents were duly scrutinized by Recruitment Board, thus, they cannot be terminated after serving for a considerable time.

13. The respondent has cited judgment of Hon’ble Supreme Court in **“Chairman and Managing Director FCI and others. vs. Jagdish Balaram Bahira and others”**, 2017 SCC Online SC 715 and **“Bhubeneswar Development Authority vs. Madhumita Das and others”**, 2023 SCC Online SC 977.



In **Jagdish Balaram Bahira (Supra)**, a three Judge Bench of Supreme Court overruled two Judge judgment in ***Kavita Solunke vs. State of Maharashtra, (2012) 8 SCC 430*** and ***Shalini Gajananrao Dalal vs. New English High School Association, (2013) 16 SCC 526***. The Supreme Court while interpreting Sections 10 and 11 of Maharashtra Scheduled Caste, Scheduled Tribe, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 has held that fraud or *mens rea* is not required for withdrawing the civil benefit, however, criminal liability can be fastened if there is *mens rea* or fraud on the part of a candidate. In the said case, the Court was concerned with filing of caste certificates which were later on cancelled by competent authority. It was found that candidates did not belong to claimed caste and wrongly obtained certificate by misrepresenting the facts.

In ***Madhumita Das (Supra)*** a Single Judge vide judgment dated 25.01.2018 upheld cancellation of Caste Certificate but directed the authorities to permit the candidate to remain in service. Learned Single Judge observed that candidate did not obtain Caste Certificate fraudulently. Intra Court appeal was dismissed on the ground of delay. Learned Single Judge had passed judgment relying upon judgments of Supreme Court in ***Kavita Solunke (Supra)*** and ***Shalini Gajananrao Dalal (Supra)***. The Apex Court set aside judgment of learned Single Judge and Division Bench of High Court and held that a candidate cannot be permitted to continue who has obtained employment against a post reserved for Schedule Caste to

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which she is not entitled. The effect is to displace a genuine candidate who would otherwise have been entitled to the post.

14. In the case in hand, it cannot be concluded that there was fraud on the part of petitioner, however, as per Standing Order, he was supposed to file freedom fighter certificate issued in his favour by Deputy Commissioner. He produced Certificate issued in favour of his father whereas he was required to produce Certificate issued in his favour., thus, there was misrepresentation on his part. The Certificate could not be issued in his favour because reservation was available upto grandson of a freedom fighter whereas petitioner is a great grandson of freedom fighter. There was concededly lapse on the part of Screening Committee. There may be connivance or negligence on the part of members of the Committee. There is no mechanism to delve into mental state of the members of the Screening Committee, thus, it cannot be concluded that there was connivance or negligence on their part. If the petitioner is permitted to continue only on the sole ground that he has completed nine years service, it would legalize his illegal act. It would prompt many other candidates to play such tactics and get job. It is a matter of chance that his illegality was unearthed. Had his illegality not been unearthed, he would have remained in service. The Court cannot legalize irregular or illegal act of the petitioner. Court is not oblivious of the fact that discharge/dismissal of petitioner would cause hardship to the petitioner and his family, however, sympathy or compassion cannot substitute law.

15. In the wake of above discussion and findings, the instant petition deserves to be dismissed and accordingly dismissed. It is made

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clear that no past benefits availed or utilized by petitioner shall be withdrawn.

(JAGMOHAN BANSAL)
JUDGE

19.11.2025
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Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	