



2025:HHC:38231

IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA

CWP No. 15402 of 2025
Decided on: 13.11.2025

Ex. NK(TS) Shiv Kumar

...Petitioner

Versus

State of H.P. & Ors.

....Respondents.

.....
Coram

Ms. Justice Jyotsna Rewal Dua, Judge.

Whether approved for reporting?¹

For the petitioner:

Mr. Imran Khan, Advocate.

For the respondents:

**Mr. L.N. Sharma, Addl. Advocate
General & Mr. Sikander
Bhushan, Deputy Advocate
General for respondents No. 1, 3
and 4.**

**Mr. Vinod Chauhan, Advocate, for
respondent No.2.**

.....
Jyotsna Rewal Dua , J

Heard. Petitioner is an Ex-Servicemen, registered as such with the concerned employment exchange. He applied for the post of Jail Warden. His name was nominated by respondent No.2 for the post of Jail Warden (Ex-Servicemen of State of H.P.) in the Prison Department. The selection process was completed. Petitioner's name alongwith other candidates was sent on 26.06.2025 to respondent No.3- The Addl. Director General, Prisons & Correctional Services, H.P, Shimla for issuing appointment letter. Respondent No.4 directed the petitioner to report before him on 09.07.2025

¹ Whether reporters of the local papers may be allowed to see the judgment? yes



alongwith all requisite documents including original Army Discharge Book. Petitioner complied with the directions and accordingly appeared before respondent No.4 with the requisite documents. The appointment letter, however, was not issued to him. It is the case of the petitioner that after repeated inquiries from the respondents, no written communication was ever issued to him as to why the appointment letter was not issued in his favour. Subsequently, petitioner became aware that his height was treated as short by one centimeter from the required minimum 168 centimeters (5' 6") for the post of Constable/ Jail Warden and for this reason, he was not issued the appointment letter. In the aforesaid background, petitioner instituted this writ petition for the grant of following substantive relief:-

“ a). That a writ in the nature of mandamus may kindly be issued directing respondents to give appointment letter to the petitioner and he be allowed to render service as jail warder with other selected candidates with his seniority and eligibility as recommended by respondent No.2.”

2. When the matter was taken up for hearing on 15.10.2025, it was apprised for the petitioner that his height was recorded as 168 centimeters (5' 6") in his Army Discharge Book (Annexure P-2 page 22 to 28), therefore, in terms of ***Ex. Hav Jugal Kishore versus State of H.P and others***,² his height has to be reckoned as per the discharge book. The judgment reads as under:-

“In all these writ petitions, the petitioners, who are Ex-servicemen and have superannuated, had applied for the posts of Constables from the category of Ex-servicemen. It

² CWP No. 4158 of 2022, decided on 11.07.2022.



appears that the petitioners were found short in height from the required height of 5 Feet and 6 Inches.

2. It is the case of the petitioners that as a matter of fact, even in the Discharge Books, which are maintained by the Army, the height of the petitioners is shown to be 5 Feet 6 Inches.

3. The learned counsel for the petitioners has placed reliance on the judgment of this Court dated 02.06.2020 in **CWP No.1408 of 2020 (Ex. Hav. Radha Krishan Versus The State of Himachal Pradesh and others)**. In paras 6 and 8 of the said judgment, the Division Bench observed as under:-

“6. Process of recruitment in the Armed Forces vis-a-vis in other Forces is more stringent than any other services and we have no reason to doubt that the height reflected in the records of the petitioner is not his actual height or else he would not have been permitted to continue in service for nearly two decades in the Armed Forces.

6. That apart, even at the time of his selection, the petitioner has been found to be meeting the height requirement and it is only when he appeared in Junga that his height has been found to be 161 Cms as against the requirement of 162.56 Cms. Further, what is more intriguing is that the Medical Board that has examined the petitioner has reported his height to be 162.1 Cms i.e. variation of 1.1 Cm.

7. xxxxx xxxxx xxxxx

8. In addition thereto, we cannot ignore the Discharge Book of the petitioner wherein his height is mentioned as 163 Cms as it is an official book entry made by a public servant in discharge of his official duties and, therefore, carries a probative evidentiary value.”

4. In view of the above, we dispose of all these writ petitions in the same terms and accordingly direct the respondents to give appointment letters to the petitioners and send them for training forthwith. Since the petitioners have suffered for no fault on their part, therefore, they shall be entitled to be treated at par with the Constables, who have already been sent for training and shall accordingly be assigned their respective places in the seniority list. In addition thereto, the petitioners shall also be entitled to all consequential benefits. We, however, clarify that the respondents would be free to verify the height of the petitioners as mentioned in the Discharge Books, before issuing appointment letters to the petitioners.



5. Pending miscellaneous application(s), if any, also to stand disposed of.” 2025.HHC:38231

3. In view of the above submission, and following order was passed in this case on 15.10.2025:-

“Reply has not been filed. At the request of learned Deputy Advocate General, two weeks time by way of final opportunity is granted for the purpose.

Learned counsel for the petitioner submits that grievances of the petitioner are otherwise covered under *EX. Hav Jugal Kishore versus State of H.P and others*, CWP No. 4158 of 2022 decided on 11.07.2022, in terms of which height is to be considered as mentioned in the discharge book. While examining the grievances of the petitioner, the respondent will also look into the aforesaid decision.

List on 12.11.2025.”

Pursuant thereto, respondents placed on record office instructions dated 10.10.2025 from the Addl. Director General, Prisons & Correctional Services, Himachal Pradesh conveying that the respondent department has examined and considered the case of the petitioner afresh and offer of appointment to the post of Jail Warden had been issued to petitioner. Copy of appointment order dated 06.11.2025 was also appended alongwith office instructions.

4. The only surviving grievance of the petitioner now is in respect of grant of consequential monetary benefit and seniority. Following the directions issued in *Ex. Hav Jugal Kishore*², petitioner has to be held entitled to be treated at par with Constables who have already been sent for training. Ordered accordingly. The petitioner shall accordingly be assigned with respective place in the seniority list. He shall also be entitled to all consequential benefits. This



exercise be carried out and benefits released to the petitioner within
six weeks.

The writ petition stands disposed of in the above terms,
so also the pending miscellaneous application(s), if any.

Jyotsna Rewal Dua
Judge

13th November, 2025_(yogesh)