

(1992) 09 P&H CK 0007

High Court Of Punjab And Haryana At Chandigarh

Case No: Letters Patent Appeal No. 792 of 1992

Sub Inspector Ram Phool and
Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision: Sept. 7, 1992

Acts Referred:

- Punjab Police Rules, 1934 - Rule 13.9, 19.20, 19.22

Citation: (1993) 1 ILR (P&H) 196

Hon'ble Judges: S.S. Sodhi, Acting C.J.; R.S. Mongia, J; Ashok Bhan, J

Bench: Full Bench

Advocate: Vinod Sharma and S.M. Sharma, for the Appellant; R.C. Setia, Additional A.G., for the Respondent

Final Decision: Dismissed

Judgement

S.S. Sodhi, A.C.J.

The matter here concerns, the order in which Head Constables are to be deputed to the Intermediate School Course at the Police Training College, Madhuban.

2. It was over twenty years ago, that a Full Bench of this Court in [Sardul Singh, Head Constable Vs. Inspector-General of Police and Others](#), laid down that Head Constables had to be deputed to the intermediate School Course in the order of their seniority. It being observed in this behalf, that it was inherent in Rule 13.9 of the Punjab Police Rules, 1934 that every Head Constable on list C has the right to be deputed for this course in his turn and no obstacle could be placed in his way, as the passing of this Course was a necessary qualification prescribed in the rules to render him eligible for further promotion to the post of Assistant Sub Inspector of Police. This was particularly so, it was said, as there was no other institution from which this qualification could be acquired.

3. The view in Sardul Singh's case (supra) was reiterated by the Division Bench in State of Haryana v. Phool Chand 1985 (2) S.L.R. 425, where again it was held that every Head Constable was entitled to be deputed to this course strictly in accordance with his seniority. The Bench further added that there was no element of selection at that stage.

4. Before proceeding further, it would be pertinent to note here the instructions issued, in this behalf, by the Director General of Police, Haryana, on December 7, 1987. They read:

According to the decision of the Punjab and Haryana High Court in Sardul Singh's case Head Constables have to be deputed to the Police Training School for Intermediate School Course in accordance with their seniority. But instances have come to notice that some Head Constables passed their Intermediate School Course while serving on deputation with the Police Training College Madhuban against the seats allotted to the P.T.C. for the said course irrespective of their seniority in their parent district/unit. The matter has been examined and it has been decided that a Head Constable on deputation maintains his seniority in his parent department only and in no way his position improves when he is on deputation. He will get the benefit of passing the Intermediate School Course according to his seniority alone. A Head Constable on deputation, if he happens to pass Intermediate School Course in any manner except seniority, shall not be considered as meritorious or superior to his seniors for reasons of his having passed the school course by a method other than seniority nor such training shall vest any right in that Head Constable to claim any promotional benefit prior to his seniors who are H Cs and were not deputed for Intermediate School Course. The act of sending a deputationist for training is firstly contrary to the Rule laid down by the High Court, therefore, no authority is expected to violate the same. If, however, any person gets training through such occasion then the promoting authority has still the power to ignore him for the purpose of promotion as against his seniors who had not done the course. These instructions may, therefore, be kept in view for strict compliance in future while admitting the names of Intermediate School Course passed Head Constables in list "D".

It is, indeed, unfortunate that despite the clear enunciation of the settled position in law, as set forth in Sardul Singh's and Phool Chand's cases (supra) as also the specific instructions issued by the Director General of Police, in this behalf, instances of Head Constables being deputed to the Intermediate School Course, otherwise than according to their seniority, continue to come to light. Recently, a Division Bench of this Court had occasion to direct the senior petitioning Head Constables to be sent to the Intermediate School Course, when they approached this Court Head Constable Satya Dev Singh v. State of Haryana and Ors. C.W.P. No. 10334 of 1991 decided on 31st July 1991, complaining that their juniors had instead been sent to the course.

5. A few months later, another instance of juniors being sent to the Intermediate School Course was noticed in *Surinder Singh Head Constable v. The State of Haryana* C.W.P. 15908 of 1991 decided on 2nd December, 1991. There too, the juniors had been sent to the course while the seniors were left out. As the course had, in the meanwhile, been completed, the Petitioners were directed to be considered as per their seniority, for the next. Course.

6. In the present case too, the complaint is of juniors having" been sent to the course in preference to the Appellants who claim to be their seniors. It has, however, come on record that there were at least 300 other Head Constables senior to the Appellants who had not so far been sent to the course. It was on this account that the learned single Judge declined to direct the Appellants to be sent to the course. While, no exception can, indeed, be taken to this view of the learned single Judge, this case does, however, bring out another glaring instance of the settled position in law being disregarded by the authorities concerned, while demitting Head Constables for the Intermediate School Course.

7. Faced with this situation, we are constrained to observe that hence forth Police Officers who depute Head Constables for the Intermediate School Course in disregard of the rule laid down by the Full Bench in *Sardul Singh's* case (supra), shall do so at their peril, as they would thereby render themselves liable for action under the Contempt of Courts Act.

8. We also hereby direct that those Head Constables who may be sent for the Intermediate School Course, otherwise than in accordance with their seniority, shall be liable to be sent back from the course on this ground alone, regardless of the stage of the course at the time when this is detected.

9. We, however, make it clear that the above-mentioned directions would be subject to any valid and legal reservation that may have been made or may be made for a particular class(s) of candidates for being deputed for Intermediate School Course.

10. Before parting with the judgment, it may be noticed that the learned Single Judge in his judgment under appeal has observed, "Even otherwise, persons deputed for various jobs at the Police Training College are allotted a number of seats in accordance with the provisions of Rule 19.22 of the Punjab Police Rules Volume II. They are permitted to undergo training by way of attending the Intermediate School Course etc. as a measure of incentive. In such a situation, I cannot say that the action of the Respondents in deputing Samunder Singh for the course was either arbitrary or unfair." Rule 19.22 of the Punjab Police Rules, Volume II. is in the following terms:

19.22. Drill and Physical training at the Police Training School.

(1) The Principal, Police Training School, may retain for service at the school any head constable or constable deputed from districts for training rules 19.20. Without

the approval of the Inspector General no drill and physical training instructor may be retained for service at the school for more than three years at a time, there being an interval of atleast one year before he is again so employed. The Principal, Police Training School, Phillaur is empowered to enter Police Training School Drill and Physical Training Instructors directly into the lower school course after their three years, period of deputation, provided that they are sufficiently educated and their service at the Police Training School has been satisfactory.

(2) All promotions of drill and physical training instructors made at the school shall be temporary and all such men shall revert to their substantive ranks on return to their districts. Drill and Physical Training Instructors returned from the Phillaur Drill Staff should not be employed even temporarily, as Drill and Physical Training Instructors in districts without the sanction of Range Deputy Inspectors General of Police.

(3) All lower subordinates employed as drill and physical training instructors at the Police Training School shall be shown on the promotion lists A, B or C of their districts as "They shall be considered equally with other men of their districts" for promotion. For this purpose, the Principal, Police Training School, will furnish an annual report in form 19.22(3) on all drill and physical training instructors to the Superintendents of the district concerned. In the case of upper subordinates confirmed as such, these reports shall be submitted to the Deputy Inspector General of the range from which the men were deputed to the Police Training School for inclusion in their personal files.

11. From the perusal of the above-mentioned Rule we find that there is no power under the Rule for deputing persons for the Intermediate School Course who are doing various jobs at the Police Training School. The Rule does not envisage allotting any seats for persons doing jobs at the Police Training School, for the purpose of deputing them for the Intermediate School Course. The learned Counsel for the Respondents could not show us any authority under any law under which any seats could be allotted for those persons who are doing various jobs at the Police Training School for being deputed out of turn for the Intermediate School Course, we consequently hold that the persons doing jobs at the Police Training School cannot be deputed for the Intermediate School Course except as per their seniority. In other words, they too are to be deputed strictly in accordance with their seniority.

12. Such being the circumstances, we direct that a copy of this judgment be sent to the Director General of Police, Haryana, to be circulated by him to all the Police Officers concerned.

13. As regards the merits of the present appeal there being over 300 persons senior to the Appellants, the impugned judgment of the learned single Judge declining relief to them, on this account, warrants no interference in appeal. We, therefore, dismiss this appeal but with the directions and observations set forth. There will be

no order as to costs.