

(2011) 10 P&H CK 0126

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular Second Appeal No. 2047 of 2011 (O and M)

Head Constable Darshan Singh

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision: Oct. 13, 2011

Acts Referred:

- Constitution of India, 1950 - Article 311(2)
- Punjab Police Rules, 1934 - Rule 16.24

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Kanwaljit Singh Ahluwalia, J.

Plaintiff having failed in two rounds of litigation has filed present regular second appeal.

2. The Appellant-plaintiff had sought a decree for declaration to the effect that the order dated 28th March, 2006 passed by the Director General of Police, Haryana, Panchkula by which his representation was rejected, is illegal, arbitrary, malafide, null and void, against the rules of natural justice and the provisions of Rule 16.24 of the Punjab Police Rules and Article 311(2) of the Constitution of India. Furthermore, it was prayed that name of the Appellant-plaintiff be considered for sending him to lower school course training along with the candidates who appeared in B-1 test conducted in the month of January 2002 and thereby benefit of the promoted rank and arrears with interest be restored to him.

3. Briefly stated, case of the Appellant-plaintiff is that he was enrolled as a Constable in Commando Police Force, Haryana Newal (Karnal) in the month of January, 2002. The authorities had conducted written test of B-1. The Plaintiff had qualified the test but he was not called for the interview as he was posted on deputation with the Superintendent of Police, CBI, SC-II, Second Floor, Block No. 3, Central Offices

Complex, New Delhi. Therefore, due to non-appearance of the Plaintiff in the interview he has been denied consideration and not deputed to undergo lower school training along with the candidates who passed B-1 test in the month of January 2002.

4. Upon issuance of notice of the suit, official Respondents took a definite stand that the information indeed was sent to the Plaintiff through his controlling officer, i.e. Director, CBI, New Delhi but he had not reported in Commando Police Lines for the parade test on the scheduled date and time. They raised a plea that proper information was sent to all the candidates who were on deputation with the Director, CBI, New Delhi and five of those deputationists appeared in the parade test and interview.

5. The trial Court considering the entire evidence, returned the following findings:

14. ... Therefore, it is clearly established that the Plaintiff did not take part in the parade test and interview of B-1 test intentionally ...

6. The trial Court further held that by non-appearance in the interview, there has been no reduction in the rank of the Plaintiff and simply because he could not avail promotional avenues for not having knowledge of the date of interview and test parade, it cannot be said that the authorities have acted malafidely.

7. The findings given by the trial Court have been affirmed by the lower appellate Court. It held as under:

16. ... But it was confirmed that the office delivered the messages to the concerned addressee in time. It is not disputed by the Plaintiff that five other candidates who were on deputation with him in the office of SP CBI, New Delhi had reported for the parade test and interview. If five other candidates were duly intimated in pursuance of the TPMs, there is no reason to believe that no intimation of the interview was given to the Plaintiff....

8. The lower appellate Court further noticed that the Appellant-plaintiff had cleared the test and also attended the lower school in the second chance, therefore, as claimed his seniority cannot relate to the previous batch for which allegedly he was not called for the interview.

9. I have heard Mr. R.K. Malik, Senior Advocate assisted by Mr. Rajat Mor, Advocate for the Appellant. No legal issue/substantial question of law has been raised for consideration of this Court. The factual matter as to whether the Appellant-plaintiff was informed about the date and time of interview or not, has already been decided against him by both the courts below. Therefore, this Court in regular second appeal will not re-appreciate or do re-appraisal of the evidence.

10. Thus, taking totality of circumstances into consideration no interference is warranted in the present appeal and the same is hereby dismissed.