

(2016) 09 P&H CK 0195

High Court Of Punjab And Haryana At Chandigarh

Case No: C.W.P. No. 23950 of 2013

Sukhwinder Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Sept. 8, 2016

Acts Referred:

- Punjab Police Rules, 1934 - Rule 13.21

Citation: (2017) 1 SCT 414

Hon'ble Judges: Daya Chaudhary, J.

Bench: Single Bench

Advocate: K.S. Dadwal, Advocate, for the Petitioner; Avinit Avasthi, AAG, Punjab, for the Respondents

Final Decision: Allowed

Judgement

Daya Chaudhary, J. - By this judgment of mine, two writ petitions bearing CWP Nos.23950 of 2013 and 26626 of 2013 shall be disposed of as common questions of law and issues are involved therein. However, the facts are being extracted from CWP No. 23950 of 2013.

2. The prayer in the present petition is for issuance of a writ in the nature of Certiorari for quashing of order dated 3.5.1990 (Annexure P-2) passed by respondent No.2 and order/Report dated 25.9.2013 (Annexure P-12) submitted by respondent No.5. A further prayer has also been made for issuance of a direction to the respondents to give ante-dated promotion to the petitioner on the respective posts upto Superintendent of Police from where the petitioner has retired from the date when his juniors have been promoted after giving the accelerated promotion from the back date by granting all consequential benefits. It has also been prayed that the pension and pensionary benefits of the petitioner be also re-fixed.

3. Briefly, the facts of the case, as made out in the present petition, are that the petitioner remained outstanding sportsman in the field of Football and achieved

various distinctions during his service career. He was supposed to be granted promotion from the date his juniors, namely, Amarjit Singh, Jaspal Singh and Gurdev Singh were granted. Petitioner filed CWP No. 9446 of 1992, which was disposed of on 14.1.2013 along with other writ petitions. In spite of directions, the petitioner was not granted relief for which he was entitled. The petitioner joined as Constable on 21.9.1973 and thereafter promoted as Head Constable on 18.7.1977. He remained on probation for a period of two years and thereafter he was confirmed as Head Constable on 15.3.1980. He also completed Intermediate Promotion Course meant for promotion to the post of ASI. After completion of the Course, he was promoted as Sub Inspector on 1.5.1981. Being the sportsman, he joined the Police force and since at that time, there was no rank of ASI in the PAP, he was directly promoted to the rank of Sub Inspector.

4. Learned counsel for the petitioner submits that as per Statutory Rules, only those police officers could be promoted to the next higher rank who qualified the promotion course whereas juniors to the petitioner, namely, Amarjit Singh, Jaspal Singh and Gurdev Singh did not pass any promotion course and they were promoted by giving relaxation in Rule 13.21 of the Punjab Police Rules by the Director General of Police without having any jurisdiction. The inter-se seniority of the petitioner vis.-a-vis. Amarjit Singh, Jaspal Singh and Gurdev Singh was determined from the date of adhoc promotion without passing any course. Learned counsel submits that the action of the respondents was illegal, unlawful, arbitrary and discriminatory. Learned counsel also submits that petitioner's claim was not considered as per directions issued by this Court in CWP No. 9446 of 1992 filed by the petitioner. Ultimately, the petitioner retired from service meanwhile. He has been discriminated by the respondent authorities in spite of the fact that he was awarded life-time achievements as he remained outstanding player but those facts have not been taken into consideration. Learned counsel also submits that the petitioner had passed his Intermediate School Course on 31.3.1980 and his seniority was to be considered from the date of entry in list "D" on 1.4.1980 and he has completed 8 years of service in the year 1988 and accordingly, he was entitled to promotion list "F" w.e.f. 1.4.1988. Learned counsel also submits that the promotion order of the juniors by considering the adhoc promotion, without passing the promotional course, are totally illegal and contrary to law and the same are liable to be quashed. Learned counsel for the petitioner further submits that case of the petitioner is squarely covered by decision in CWP No. 9977 of 1994 titled as Harjinder Singh v. State of Punjab and others, decided on 14.1.2013. At the end, learned counsel submits that the petitioner is entitled for consideration of his seniority on completion of 8 years of service from the date of entry in list "D" in the year 1988. His junior, namely, Gurdev Singh, was given promotion to list "D" w.e.f. 25.7.1975 instead of 1.10.1980 i.e. when he actually passed the Intermediate School Course.

5. Learned counsel for the respondent-State opposes the submissions made by learned counsel for the petitioner. He also submits that sports achievement of Gurdev Singh, against whom the petitioner is claiming promotion, are much better than the petitioner. Petitioner has already been granted due promotional benefits on the basis of sport achievements from time to time. He was promoted to the rank of Sub Inspector w.e.f. 1.5.1981. Learned State counsel also submits that the petitioner is not entitled for grant of promotional benefits against Amarjit Singh, Jaspal Singh and Gurdev Singh. The claim of the petitioner was rejected by the Officers' Committee. The cases of some sports persons were considered for promotion by the Director General of Police, Punjab and petitioner was exempted from passing Lower School Course and his name was admitted to deemed date of promotion list "E" w.e.f. 1.10.1983. Thereafter, he was promoted in list "F" which was prepared on 15.11.1989 instead of 16.09.1990. The petitioner was granted due promotional benefits as per Rules/instructions.

6. It has been submitted by learned counsel for the petitioner that the petitioner would be satisfied in case, the case of the petitioner is considered in view of judgment in Harjinder Singh's case (supra).

7. Learned State counsel has no objection in reconsidering the case of the petitioner.

8. I have heard learned counsel for the petitioner as well as learned State counsel and perused the documents available on the file.

9. On perusal of judgment in Harjinder Singh's case (supra), it transpired that the same grievance like discrimination, promotion by granting exemption from passing the requisite promotional course were there. Out of turn promotions have affected the promotional avenues of the petitioner. The matter was referred to Officers' Committee comprising of two senior Officers of the Police Department as well as one Additional Advocate General, Punjab. It was held that the petitioner was held entitled for all benefits granted to the candidates, who were given exemption from passing the promotional course and their case was decided in view of judgment in Harjinder Singh's case (supra).

10. Accordingly, the present petition is disposed of with a direction to respondents to reconsider the case of the petitioner in view of judgment in Harjinder Singh's case (supra). The necessary exercise be done within a period of three months from the date of receipt of certified copy of the order. In case, the petitioner is found to be entitled for the benefits, the same be released to him within a period of two months thereafter. In case, the petitioner is aggrieved with any action of the respondents, in any manner, he is at liberty to avail the appropriate remedy.