

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 16034 of 1999

DATE OF DECISION: 1.4.2015

Mansa Ram

.....Petitioner

Versus

State of Haryana and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspaper may be allowed to see judgment?**
- 2. To be referred to reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present:- Mr. Ravinder Malik Ravi, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. D. A.G., Haryana.

DAYA CHAUDHARY, J.

Petitioner-Mansa Ram was selected and enlisted in the Police Department on 1.12.1988. On completion of his training, he started serving the Department. Initially, he was posted at Yamuna Nagar and thereafter he was transferred to Hisar range.

As per Rule 13.1 of Punjab Police Rules, 1934 as applicable to Haryana, the promotion in the Police Department is to be regulated on the basis of lists B,C,D, E and F, which are prepared on the passing of said course. The promotion from the post of Constable to the post of Head Constable is made on the basis of passing Lower School Course. As per rule, the test of lower school course is held in the month of January of each

year. The petitioner appeared in the B-1 test held in District Yamuna Nagar on 29.1.1994 but he could not clear the test. Thereafter he was transferred to District Hisar and he again appeared in B-1 test in the same year. He was selected in District Hisar but could not be deputed to Lower School Course as his name was not approved as he had already appeared in the test but failed in B-1 test held in batch No. 35 in District Yamuna Nagar.

Now the petitioner is claiming seniority to be fixed on the basis of marks obtained in batch No. 36, whereas, he could not pass B-1 test in batch No. 35 in District Yamuna Nagar and passed the test at Hisar for batch No. 36. The seniority of the petitioner was fixed on the basis of subsequent test but he is claiming seniority from the earlier date.

Learned counsel for the petitioner submits that as per Rule 13.1 (1) and (2), the date of admission to list 'C' is not material but the order of merit in the examination is relevant. Learned counsel further submits that the petitioner is entitled for inclusion of his name in List 'C' as for determination of his seniority for the promotion to the rank of Head Constable it should be treated as if he has passed Lower School Course in September, 1994 inspite of March, 1995. Learned counsel also submits that the action of respondents is not only violative of Articles 14 and 16 of the Constitution of India but malafide as well.

Learned counsel for the respondent-State submits that the present petition is liable to be dismissed being time barred as the petitioner was brought on promotion List C-I on 3.11.1995 after declaration of the result of Lower School Course by the Director, Police Training College, Madhuban and was given seniority among the candidates of batch No. 36. The petitioner had failed in B-1 test in January, 1994, which was held in District Yamuna Nagar but he managed his transfer in District Hisar and again appeared in B-1 test in the same year. In subsequent test, he was

selected but was not deputed to Lower School Course as his name was not approved for list B-1 as earlier he had appeared and failed in B-1 test held in batch No. 35 in District Yamuna Nagar. Learned State counsel also submits that the petitioner is not entitled to get his seniority fixed on the basis of marks obtained in subsequent batch No. 36 as he could not pass B-1 test for batch No. 35.

Heard the arguments advanced by learned counsel for the petitioner as well as learned State counsel and have also perused the impugned order dated 17.12.1997.

Rule 13.7 of Punjab Police Rules, which is applicable to Haryana also, is relevant for the issue in dispute in the present case, which is reproduced as under:-

“13.7 (1) List B (in Form 13.7) shall be maintained by each Superintendent of Police. It shall include the names of all Constables elected for admission to the Lower Training College. Selection to the list shall be made in the month of January each year and shall be limited to the number of seats allotted to the District for the year. For reasons to be recorded, the number of seats can be increased by 20%. Allotment of seats to each district shall be done on the basis of existing vacancies and the number of vacancies which are likely to occur during the next one year. Names shall be entered in the list in the order of merit, determined by the Departmental Promotion Committee on the basis of tests in (i) Parade (ii) Written test in General Law (Indian penal Code, Criminal Procedure Code, Indian Evidence Act and such other local and special laws as may be specified (iii) interview and (iv) Examination of Service Record.

(2) xx xx xx

(3) Departmental Promotion Committee for each district shall consist of District Superintendent of Police and two Deputy superintendents of Police to be named by the D.I.G. concerned.

The candidate will have to obtain at least 50% of the marks in each test. The maximum marks for each test shall be prescribed by the Inspector General through a standing order, which may be reviewed after every three years.

(4) The assessment of service record will be done on the basis of education courses passed and commendation certificates earned during the service. The marks assigned, to these shall be as follows:-

(1) Education

B. A. and above : 5 marks

Matric and above: 3 marks

Middle and above: 2 marks.

ii) Courses passed:

Courses upto 1 month duration 1 marks

-do- 3 months duration: 2 marks

-do- 6 months duration: 3 marks

-do- 9 months duration: 4 marks

-do- exceeding 9 months duration: 5 marks

iii) Commendation Certificates:

Class I : 3 marks

Class II: 2 marks

Subject to a maximum of 15 marks for both Class III: 1 mark.

Undisputedly, the petitioner failed in B-1 test in January 1994 conducted in District Yamuna Nagar but subsequently he was transferred in District Hisar and he again appeared in B-1 test in the same year. He was selected but could not be deputed to the Lower School Course as his name was not approved because of the reason that he had already failed. The petitioner is claiming his seniority to be fixed on the basis of qualifying of his test in District Yamuna Nagar for batch No. 35, whereas, the seniority of the petitioner has been fixed in view of test for batch No. 36, which was at Hisar. The petitioner cannot claim seniority over and above the officials of other range as seniority is determined in the same range where he was posted and passed the test. He qualified the test in District Hisar, whereas, he is claiming seniority of District Yamuna Nagar. Had he been in Yamuna Nagar he could not have appeared for the second time in the same year as an employee is entitled to appear in test only once in a year. The petitioner appeared in January, 1994 but failed and subsequently he managed his transfer in another District and qualified the test. It has rightly been mentioned in the impugned order that as per Rule 13.8 of PPR, the promotion of Head Constable shall be made in accordance with principle described in Sub Rule 13.1 (1) and (2). The date of admission to List 'C' is not material but the order of merit in which examination has been passed is to be taken into consideration. As per rule 13.8 (2), the seniority is to be counted as per merit list of passing of the course not from the date of admission to list 'C'

In view of the above, there is no merit in the contentions raised by learned counsel for the petitioner and the petition being devoid of any merit is hereby dismissed.

1.4.2015
pooja

(DAYA CHAUDHARY)
JUDGE

