

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No.13444 of 2007
Date of decision : 09.09.2015**

ASI Darshan Singh & anr.

....Petitioners

Versus

State of Punjab & ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. K.G.Chaudhary, Advocate
for the petitioners (except CWP No.3280 of 2008 and
CWP No.14148 of 2007)

Mr. Rakesh Verma, Sr. DAG, Punjab.

G.S.Sandhawal, J. (Oral)

This order will dispose of a bunch of six writ petitions bearing CWP Nos.13444, 14102, 13873, 14148, 14801 of 2007 and 3280 of 2008 as common question of law is involved in all these petitions. The facts of the case are being taken from CWP No.13444 of 2007 for its disposal.

In the said case, the petitioners challenged the order dated 20.08.2007 (Annexure P-6) vide which they were reverted to the post of Constable without any notice. The petitioners joined the Punjab Police as Constable on 03.11.1989 and 02.02.1992 respectively. Their names were entered into List C-II on 06.08.2001 and were promoted as Head Constables (ad hoc) on 19.04.2002 and 05.08.2003 respectively. Petitioner No.1 was stated to be promoted to the rank of ASI on ad hoc basis vide order dated 22.07.2002 whereas petitioner No.2, who was promoted as Head Constable on 05.08.2003 and had worked for a period of more than 4 years. A

show cause notice was given to them for reversion to the post of Constable and reply was filed by them. Respondent No.4 without advertizing to their replies passed the impugned order dated 20.08.2007 reverting them to the post of Constable.

As per Punjab Police Rule 13.8(2), 10% of the posts in a cadre of Head Constable can be filled from amongst constables, who are otherwise considered suitable with the approval of DIG and were to be brought on list C-II and were exempted from passing the Lower School Course, which is the eligibility criteria.

The petitioners claimed that due to their outstanding service record, they were brought to list C-II and they were no more than 10% of the total cadre strength of the Head Constables. Therefore, the order of reversion was wrong. They were liable to be confirmed after successful completion of probation period of two years on the post of Head Constable.

In the written statement filed by the respondents, the plea taken is that the promotions were in excess of 10% quota of List C-II and accordingly, reversion's were made. Candidates belonging to the List C-I filed writ petition bearing CWP No.15684 of 1996 in this Court that they had passed the Lower School Course and were entitled to the promotion to the post of Head Constables. Affidavit was filed that instructions had been issued to Senior Superintendent of Police, Patiala to revert those Head Constables who had been promoted in excess of 10% quota of List C-II. The said writ petition thereafter was disposed of as having rendered infructuous with liberty to the Head Constables who might have been reverted to challenge their reversion order before an appropriate forum. Similarly, situated constables,

being in excess of List C-II quota filed CWP Nos.13788, 13789 and 13790 of 1990 in this Court claiming their ad hoc/ORP ranks. The said writ petitions were disposed of with following directions:

- "i. Constables on list C-II upto 10% (and no more) of the cadre strength of Head Constables can be promoted at any given time.*
- ii. That the constables on list C-II to the aforesaid extent have to be promoted strictly in accordance with the dates they are brought on List C-II.*
- iii. There would be no bar for a person on List C-I who happens to be a sportsman to be brought on list C-II, of course, subject to the approval of the DIG, but his date on list C-II will be the date on which he is brought on the said list and may be promoted as a HC in accordance with the date he is brought on list C-II.*
- iv. There is no special quota of 5% for sportsmen in List C-II Rule 13.8(2 envisages filling of 10% posts of the cadre of Head Constables from amongst which would include sports.*

While carrying out the aforesaid directions persons may be reverted, if necessary, from the post of Head Constable to Constable strictly in order of their having been brought on list C-II but such Head Constables from list C-II would be more than 10% of the total cadre strength of the Head Constables. Those Head Constables who are within 10% quota from list C-II and have further been promoted to a higher rank on officiating or ad hoc basis would hold lien on the substantive posts of the Head Constables. Such posts may be temporarily filled by promoting constables from list C-II strictly in accordance with the dates of there being brought on list C-II but if any of the Head Constables who is holding higher post on officiating basis is reverted to the post of Head Constable (who had been promoted from list C-II) then such an incumbent who is temporarily promoted as head constable

will have to make room for such a reverttee in accordance with his seniority."

It is, thus, submitted that in view of the above directions, the cadre strength had been maintained upto 10% quota from List C-II and the reversion had been done to comply with the orders passed by this Court. It is thus, apparent that the right of the petitioners could only be to the extent of the entitlement of the Rule and could not be over and above the 10% of quota strength. Once the reversion has been justified on the said ground having been made beyond 10% quota and taking that in account, no fault cannot be found in the order. Admittedly, petitioners were given show cause notice and they also filed their replies. In the replication filed also, it is not demonstrated in any manner as to whether the petitioners were within the 10% quota/ permissible limit.

In such circumstances, the orders passed by respondent No.4 while complying with the directions of this Court, cannot be faulted.

Accordingly, the writ petitions stand dismissed.

09.09.2015
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(G.S.Sandhawalia)
Judge