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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10820 of 2014
Date of decision:18.03.2015

Balkar Singh ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. G.S.Bal, Senior Advocate, with
Mr. ADS Bal, Advocate, for the petitioner.

Mr. Anant Kataria, AAG, Punjab.

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Rakesh Kumar Jain, J.

The petitioner has challenged the show cause notice dated 24.05.2014 and has prayed that further action in pursuance of that notice may be stayed. At the time of issuance of notice of motion in the writ petition, the following order was passed by this Court:-

> "Learned counsel for the petitioner submitted that though a show cause notice has been issued to him by Senior Superintendent of Police, but the contents of the show cause notice itself show that decision to revert the petitioner from the post of Head Constable to that of

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Constable has already been taken by the Director General of Police. In that eventuality, the show cause notice is an eye-wash.

Notice of motion for 18.08.2014.

Mr. Anshul Gupta, Assistant Advocate General, Punjab, who is present in court, accepts notice.

In the meantime, status quo regarding services of the petitioner shall be maintained."

In brief, the petitioner joined as a Constable on 04.02.1993 in the Punjab Police. For the purpose of further promotion as a Head Constable, the eligible Constable has to undergo Lower School Course at the Punjab Police Academy, Phillaur. Thereafter, the selected Constable has to clear the test known as B-I and on the basis of the merit list, determining future inter-se seniority, the Constable is further promoted as Head Constable.

A list of 239 Constables was prepared for B-I test for deputing them to undergo Lower School Course. Though the number of vacancies earmarked for Constable in the said session was 240 but only 239 Constables were deputed to undergo the B-I test in which the petitioner was also included at Sr. No.238. The petitioner reported for the training at the Punjab Police Academy, Phillaur on 14.04.2011 but without any reason, the respondents revised the said B-I list and issued a fresh list of 239 Constables but in that list, the petitioner was placed in the waiting list at Sr. No.4. As a result thereof, the petitioner was ordered to be re-called from

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the Course which led to the filing of a writ petition by him bearing CWP No.7227 of 2011 in which the order of re-calling was initially stayed and the writ petition was finally disposed of as infructuous with the following observations:-

> "The petitioners were deputed to undergo Lower School Course which commenced from 15.04.2011. While the petitioners were undergoing the said course the impugned order was passed recalling them from the said course. The aggrieved petitioners have approached this Court. While issuing notice to the respondents, this Court vide order dated 27.04.2011 directed the respondents that petitioners shall be allowed to complete the Lower School Course.
>
> Learned counsel for the petitioners states that pursuant to the aforesaid order dated 27.04.2011, the petitioners have already completed the said course.
>
> That being so, the writ petition is disposed of as infructuous with a clarification that the petitioners shall be treated to have completed the Lower School Course for all intents and purposes though without prejudice to the rights of their seniors, if any.
>
> Dasti."

Counsel for the petitioner has submitted that the petitioner belongs to the Backward Class category and one Constable, namely, Satnam

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Singh No.309/R, who also belongs to the Backward Class category and for whom one seat was kept reserved in the next course while his name was appearing at Sr. No.67 in the original list and at Sr. No.64 in the revised list, did not choose to undergo the Lower School Course in the batch of 2011 which was successfully completed by the petitioner. However, during the pendency of the writ petition, his result was not declared along with the other Constables on 13.09.2011 rather on his representation, it was declared on 01.10.2011 as per which the petitioner had obtained merit position no.46 and his name was entered at Sr. No.61 out of 239 Constables. On the basis of result, name of the petitioner was brought on C-I list vide order dated 31.10.2011 and was allocated to Patiala Range vide order dated 21.08.2012. The petitioner has already been promoted as Head Constable on the basis of seniority from due date but to his utter surprise, he received the show cause notice dated 24.05.2014 on 26.05.2014 in which it is alleged that he had been wrongly deputed to undergo Lower School Course in the year 2011 and is required to be reverted to his original post of Constable.

According to the petitioner, the language in the notice itself suggests that the decision had already been taken at the level of the Director General of Police and communicated to the Deputy Inspector General of Police, Patiala Range, Patiala to revert the petitioner as Constable and hence, the show cause notice is just an eye wash to complete the formality.

Counsel for the petitioner has submitted that since Satnam Singh No.309/R, who belongs to the Backward Class category, did not join the Lower School Course, therefore, the next available candidate in the

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Backward Class category, as per the roster points, was the petitioner who has been rightly deputed to complete the Lower School Course and has been promoted as Head Constable.

In reply, it is admitted by the respondents that 239 seats were allotted for the Lower School Course for the year 2011. The Basic Proficiency test was held in Chahal Palace, Patiala on 13.03.2011. the merit list of 1500 candidates was received in the office of the Director General of Police, Punjab, Chandigarh from the Chairman, Basic Proficiency Test vide his letter dated 22.03.2011 in which name of the petitioner was mentioned at Sr. No.238. The course was to start from 01.04.2011 at Punjab Police Academy, Phillaur but later on, the Director General of Police, Punjab, vide its letter dated 30.03.2011, intimated that the course will commence from 15.04.011 and the candidates selected for this course should reach at Phillaur on 14.04.2011 but it was later on found that the merit list of the selected candidates was not correctly prepared and the Chairman of the Committee was requested to prepare the fresh selection list as per roster points. In the revised merit list, the name of the petitioner was placed at Sr. No.4 in the waiting list instead of earlier Sr. No.238. It is also averred that according to the directions of the Director General of Police, respondent no.4 was directed to recall the petitioner from Punjab Police Academy, Phillaur but because of the writ petition filed by him, he was allowed to complete the course but he was ultimately not found entitled to be deputed for the Lower School Course and vide the impugned show cause notice, he has been asked to give reply as to why he should not be reverted to the post

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of Constable, therefore, it is submitted that the petitioner does not have any right to espouse in the Court and his writ petition is premature because he has challenged the show cause notice.

While replying to para no.7 of the writ petition on merits, the respondents have admitted that HC Satnam Singh No.309/R, who belongs to Ramgaria caste which falls in Backward Class, made an application to the SSP, Ropar at the time of medical examination that he has passed the preliminary test of P.C.S. and since he is preparing for the final test of P.C.S. to be held on 24.06.2011, therefore, he may be sent for the Lower School Course in the next batch. On his request, Satnam Singh was sent for the Lower School Course in the next batch which was commenced from 01.09.2012 to 24.12.2012, his name was included in list C-I on 01.01.2013 and he was promoted to the post of Head Constable on 01.03.2013 as per the Central Seniority List.

I have heard learned counsel for the parties and examined the available record with their able assistance.

There is no dispute that as per the Basic Proficiency Test, held in the year 2011, Satnam Singh No.309/R belonging to the Backward Class category was at Sr. No.67 and the petitioner, who also belonged to the Backward Class category, was at Sr. No.238. In the revised merit list of the Basic Proficiency Test 2011, Satnam Singh No.309/R is shown at Sr. No.64, whereas the petitioner is shown at Sr No.4 in the waiting list as per the roster points, after first three candidates of the general category. Thus, in case the name of Satnam Singh No.309/R is excluded from the selection list

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which was prepared on the basis of the roster Points, the petitioner, who is at Sr No.1 in the waiting list of Backward Class candidates, either takes his place or comes in the list of the selected candidates and deserves to be sent for the Lower School Course.

Insofar as the question of writ petition having been filed at the premature stage is concerned, the show cause notice itself suggests that the decision has already been taken by the Director General of Police, Punjab, Chandigarh vide letter dated 04.03.2014 written to the DIG, Patiala Range, Patiala to withdraw the name of the petitioner from promotion list C-1, therefore, the rest of the proceedings to be carried out on the basis of the show cause notice was a mere formality which has been noticed by this Court at the time of issuance of notice of motion.

In view of the aforesaid discussion, I am of the considered opinion that the impugned show cause notice, withdrawing the name of the petitioner from the promotion list C-1, is patently erroneous because the petitioner, who otherwise belong to the Backward Class category, takes the place of Satnam Singh No.309/R who also belongs to the Backward Class category and did not choose to undergo the Lower School Course because of his personal difficulties, as mentioned in the reply.

Resultantly, the present writ petition is hereby allowed and the impugned show cause notice is set aside.

March 18, 2015 (**Rakesh Kumar Jain)**
vinod* **Judge**