

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14227 of 2015

Date of Decision: 17.11.2015

Jugraj Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sameer Sachdeva, Advocate,
for the petitioner.

Mr. Vaibhav Sharma, DAG, Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

1. The challenge in this petition is to the order dated July 01, 2015 (P-9) reverting the petitioner from Head Constable to the post of Constable. The order has been passed after a show cause notice dated June 11, 2015 was issued to the petitioner explaining to him the reasons why he did not make the grade in the Basic Proficiency Test (B-1) which was conducted in the year 2009 in relation to Police District Sri Muktsar Sahib. He had no right to preservation of the course result for promotion as his admission was a mistake created by the petitioner. The petitioner is a member of the Scheduled Caste category and could only have been deputed from amongst the reserved category as there were many general category candidates senior to him who were deputed to the course during the relevant session. The Police Department had allotted eight seats for Sri Muktsar Sahib District for B-1 list. A merit list of 26 candidates was prepared on the basis of the marks

obtained in the written test including the marks obtained in parade/interview, marks assigned for commendation certificates and the service record ratings. Six general category and two reserved category candidates, namely, Roop Lal and Dharampal who had secured 66 and 65.50 marks respectively out of 100 marks were deputed to the Lower School Course as per merit. Petitioner Jugraj Singh had secured only 60.25 marks and could not have made the grade on merits to secure admission to B-1 course.

2. Nevertheless, he approached this court by filing CWP No.15509 of 2009 praying for a direction to the respondent police department to depute him to the Lower School Course. He took up a false plea that he had obtained 41 marks in the written test and Gurdeep Singh and Dharampal had obtained 34.50 and 36.50 marks respectively. He concealed from the Court that the marking system for the B-1 Test from where candidates are deputed to the Lower School Course consists of five stages. Each of those stages have been assigned marks and all of them have to be totalled with the written test for the merit to be determined and result declared. The written test consists of 65 marks whereas 5 marks are assigned for service record and 10 each for parade, interview and commendation certificates. If all the marks were added the petitioner would not have secured admission. This is how the court was misled in passing the interim ex parte order directing the respondents to depute him for the course on an impression that the petitioner was superior in merit and persons lower in merit had been deputed. The petitioner filed a reply to the show cause notice.

3. The reply to the show cause notice has been considered and the

impugned order has been passed demoting the petitioner to the post of Constable.

4. In the written statement filed by the State Government through the Senior Superintendent of Police, Sri Muktsar Sahib on behalf of respondents No.1 to 3 the claim of the petitioner for reinstatement to the post of Head Constable has been refuted as one without merit. It has been explained that the petitioner concealed material facts in his previous writ petition and misrepresented to the Court that respondents No.3 and 4 i.e. Gurdeep Singh and Dharampal were lower in merit and had been sent to the Punjab Police Academy for attending the Lower School Course. This is recorded in the order dated October 22, 2009 (R-1) passed by this Court. Even so, while the interim order was passed directing the respondents to allow the petitioner to join the Lower School Course yet the admission was made subject to eligibility of the petitioner and other relevant factors in the context of the Rules. Besides, it was recorded that the interim relief has been granted only in view of the nature of pleadings and the interim arrangement would not give any right to claim qualification.

5. On summons, the State appeared in the previous writ petition to contest it. The State filed a reply bringing out the true facts on record and apprising the Court that the petitioner was not entitled to be deputed to the Lower School Course. The writ petition was yet to be decided when the petitioner moved CM No.17967-68 of 2010 in the pending writ petition praying that he may be permitted to withdraw the writ petition. The CM was disposed of on January 12, 2011 (R-2) by passing the following order:-

"Learned counsel for the petitioner submits that the relief claimed in the petition is rendered infructuous. In this view the

matter he seeks to withdraw this petition on account of completion of course and declaration of result.

Prayer allowed.

Writ petition is dismissed as withdrawn."

6. However, the interim arrangement was not made absolute since the petition was withdrawn on account of completion of course and declaration of result that is how it was pleaded in the application that the petition has been rendered infructuous. Indisputably, the petitioner wangled his way to the Lower School Course even though he had not qualified the B-1 Test on merit in the reserved category. This is how the name of the petitioner was inadvertently entered in list C-1 w.e.f. March 01, 2010 and on the basis of the list he was promoted as Head Constable w.e.f. April 13, 2011 inadvertently. That unlawful position has been corrected by the present dispensation after serving a show cause notice and hearing the petitioner. The reversion of the petitioner thus cannot be said to be a punishment as made out by his learned counsel. It is a natural consequence of the mischief played by the petitioner by concealing facts from this Court in CWP No.15509 of 2009. It was this deceit practiced on the Court which had led to creation of additional seats in favour of the petitioner for implementing the interim order of this Court as is noticeable in the endorsement at the foot of the order dated November 17, 2009 (P-2).

7. This Court finds nothing wrong in the order dated July 01, 2015 (P-9) and the same is upheld as legal and valid. If the petitioner has lost six years of his service career or that the period has gone down the drain it is for him to reconcile with. It is well settled that those who do not approach the Court with clean hands, clean mind, clean heart and clean motive

deserve no equity. No one can take advantage of his own wrong.

8. If the argument is that the petitioner has lost his chances which may have come his way in routine in the year 2010 onwards till 2015 by appearing in the B-1 Test afresh cannot be resolved in these proceedings as it is limited to the examination if the impugned order of reversion is sustainable. There is also no prayer of what has been projected in the last bullet of the list of events. In the list of events and in the petition the petitioner has pleaded that the impugned order dated July 01, 2015 has been passed "without affording any opportunity of personal hearing" and a few sentences later as "without giving any proper hearing whatsoever" which is a shifting and untruthful stand aimed at causing confusion in the mind of the court. The petitioner was heard personally before the impugned order was passed. He was heard at length. It has as has been recorded in paras.8 & 9 of the impugned order which have not been specifically refuted in the petition. I have no reason to doubt it.

9. There is no merit in the petition which is hereby dismissed.

(RAJIV NARAIN RAINA)
JUDGE

17.11.2015
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