

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

CWP No.24659 of 2012

Date of decision: 09.10.2015

Devinder Singh

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Namit Kumar, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

1. To be referred to the reporters of not?
2. Whether the judgment should be reported in the digest.

DEEPAK SIBAL, J. (Oral)

Both the petitioner and respondent No.5, while serving in the Haryana Police as Constables, participated in the Senior National Net-Ball Championship for Men and Women-2006 held at Andhra Pradesh and secured second position.

For promotion to the post of Head Constable, a Constable has to undergo the Lower School Course on the successful completion of which he is placed on List 'C' and then on the basis of seniority and existence of vacancies is promoted to the post of Head Constable. For being deputed to the Lower School Course, 10% of the seats are allocated for Constables who maintain consistent outstanding performance in their job/secure Gold or

Silver Medal in All India Police Games/Duty Meet/National Games or display exceptional bravery during the course of performace of official duty.

As noticed above both the petitioner and respondent No.5 had been awarded a Silver Medal in the Senior National Net Ball Championship held at Vijaywada, Andhra Pradesh and on the basis thereof they represented for being sent to the Lower School Course under the above referred 10% quota. Respondent No.5 was deputed to undergo the Lower School Course in the 47th Batch, however, the petitioner was not, which led to the making of another representation by him which when remained undecided, he approached this Court through **CWP No.2612 of 2008;Devender Singh v. State of Haryana and others** which was disposed of vide order dated 22.02.2008, directing the respondents to consider the petitioner's claim.

In compliance with the orders passed by this Court, the petitioner's claim was considered favourably and he was deputed for undergoing the Lower School Course under 10% quota, however, only in May 2008, in the 50th Batch. It may be noticed that his claim was favourably considered for being deputed to the Lower School Course in the 50th Batch on the basis of the same achievement as respondent No.5 who, as noticed earlier, was deputed for the Lower School Course in the 47th Batch.

On having successfully completed the Lower School Course, the petitioner represented to the respondents to be treated to have undergone the course in the 47th Batch as

according to him, he had wrongly not been deputed for the course, at that time in a discriminatory and arbitrary manner. On rejection of his representation, he has approached this Court through the present writ petition.

I have heard learned counsel for the parties.

The precise grievance made by the petitioner is the claim for seniority *at par* with respondent No.5, who on the basis of the same achievement as the petitioner was deputed to undergo the course in the 47th Batch whereas the petitioner was deputed to undergo the same course in 50th Batch. It is not disputed that the achievement of both the petitioner and respondent No.5 are the same that being so the respondents were asked to produce record and show whether in the 47th Batch there existed vacancies under the 10% quota.

A perusal of the produced record shows that at the time of deputing Constables for the 47th Batch, there were a total of 787 seats, 10% of which came to 78 as against which only 61 candidates had been deputed. Thus, there were 17 vacancies. No reason is forthcoming from the side of the respondents so as to why, respondent No.5 was preferred over and above the petitioner and deputed for the course in the 47th Batch while ignoring the petitioner's claim.

In view of the aforesaid position, the petitioner would be brought on List 'C' from the date other Constables in HAP Range who had passed the Lower School Course in the 47th Batch have been brought and his case for further promotion would be

considered accordingly.

The writ petition stands allowed in the above terms.

Needful be done within three months from the date of receipt of a certified copy of this order.

(Deepak Sibal)
Judge

09.10.2015
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