

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

LPA No.303 of 2009 (O&M)
Date of decision: 05.12.2015

State of Haryana and others

...Appellants

Versus

ASI Hukam Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Sudeep Mahajan, Addl. A.G. Haryana,
for the appellants.

None for the respondents.

SATISH KUMAR MITTAL, J. (Oral)

State of Haryana and its officials have filed this intra-court appeal under Clause X of the Letters Patent against the order dated 12.03.2008 passed by learned Single Judge whereby the writ petition (CWP No.18156 of 1995) filed by respondent No.1 was allowed; and a direction was issued to the Director General of Police, Haryana to examine the claim of respondent No.1 to affix his seniority from the date his juniors were promoted to the rank of Sub Inspector afresh in light of the observations made in the impugned order. It has also been observed that in case respondent No.1 is found entitled to any benefit, the same shall be granted to him within one month from the date of decision of his claim. The learned Single Judge while passing the aforesaid order has made the following observations in its order:

“I have heard learned counsel for the parties, perused the paper book and am of the considered opinion that the controversy herein is squarely covered by a judgment of this Court reported as **Tara Singh and others V. State of Punjab and others**, 2004(1) RSJ 530, wherein, after placing reliance upon the judgements of this Court reported as **Hardev Singh V. State of Haryana**, 1995(2) RSJ 282 and **Jagat Singh V. State of Haryana**, 1995(2) RSJ 229 and upon a Full Bench judgement of this Court reported as **Sardul Singh V. State of Punjab**, 1970 SLR 505, it was held that a Head

Constable, is deemed to be confirmed in service on the expiry of two years period of probation commencing from the date of his promotion. The petitioner was promoted to the post of Head Constable on 2.6.1981. Rule 13.18 provides a two years period of probation. No adverse circumstance existed as necessitated extension of the period of probation and none have been asserted. The petitioner was, however, confirmed as a Head Constable only on 31.8.1986. I find no reason to differ from the views recorded in the aforementioned judgments, which cover the present controversy in its entirety. ”

After hearing the learned counsel for the appellants and going through the impugned order, we do not find any ground to interfere in the order passed by the learned Single Judge. Since, the learned Single Judge has only remanded the matter with the direction to Director General of Police, Haryana (appellant No.2 herein) to take afresh decision in the matter, in the light of the observations made in the impugned order. In our opinion, instead of filing the appeal against the said order appellant No.2 should have decided the matter afresh in light of the judgments cited in the impugned order passed by the learned Single Judge, In case respondent No.1 is not found entitled for the relief claimed, it is always open to appellant No.2 to give reasons for declining the same by passing a speaking order. The said exercise is yet to be done. The only direction given by the impugned order to Director General of Police, Haryana (appellant No.2 herein) is to decide the claim of respondent No.1 afresh after taking into consideration various judgments cited in the said order. Thus, such order in our opinion does not require any interference by this Court.

In view of these facts, present appeal stands dismissed.

(SATISH KUMAR MITTAL)
JUDGE

(SHEKHER DHAWAN)
JUDGE

December 05, 2015
mohan