

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

Civil Writ Petition No.3531 of 2015

Date of decision: 26.2.2015

Suresh Kumar

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Manu K. Bhandari, Advocate,
for the petitioner.

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

RAJIV NARAIN RAINA, J. (Oral)

The petitioner was compelled to approach this Court in CWP No.15241 of 2009 with a co-petitioner seeking a direction to the Police Department to depute them to the Lower School Course which right has been denied to him. It was their case that one Constable Jugraj Singh at Muktsar had secured 61.25 marks in the test against the claim of the petitioner No.1 (the petitioner herein) who secured 64.00 marks in the same test and was, therefore, more meritorious. The action of the Department was faulted by this Court in the aforesaid writ petition on 23.8.2011 when the petition was allowed and a direction was issued to the respondents to depute the petitioner to the Lower School Course to be tested on B-1 standards, the course commencing with effect from 1.9.2011. Order dated 23.8.2011 is to

be read in this way as the rules would manifestly require. Having qualified the test, the petitioner was promoted with effect from 1.12.2011 as Head Constable. The further promotion from Head Constable is to the post of Assistant Sub Inspector where cases come via C-1 test or what is called the Intermediate School Course. The complaint of the petitioner is that the DGP, Punjab vide letter dated 31.10.2013 has granted retrospective promotion to C-1 to Head Constable Jugraj Singh with effect from 13.4.2011 instead of 29.8.2012 by which action, he has stolen a march over the petitioner in seniority without notice of hearing to him. The order was passed behind the back of the petitioner and he complains that his seniority be restored on his merit position in B-1 which governs the rule of seniority.

The petitioner has made a representation to the Police Department for correction of the error and for restoration of his due place in the seniority list in accordance with his merit. It may be mentioned that the petitioner belongs to the reserved category of scheduled caste while Jugraj Singh is a general category candidate but reservation and caste has nothing to do with the merit position where his personal achievement in the Test is higher than Jugraj Singh. Despite the representation demanding justice having being served on 18.9.2014, no action has been taken so far on it and cases of promotions to the higher post of ASI are to be taken up soon. If this Court does not intervene, the representation of the petitioner may not be decided which should cause serious prejudice to him for promotion to the higher post where he will be side-stepped by Jugraj Singh who would be promoted to the next higher post ignoring the case of the petitioner.

Therefore, Mr.Bhandari appearing for the petitioner prays that instead of calling upon the State to respond to this petition on issuance of

notice of motion, it would be more appropriate if a direction is issued to the respondents to examine the representation and correct the wrong committed by them on their own without Court interference.

The prayer of Mr.Bhandari is fair and reasonable and the ends of justice would be met if a direction is issued to the respondents to consider and decide the representation within 45 days from the date of receipt of a certified copy of this order. In case, the plea of the petitioner is found just and appropriate, hearing may be offered to HC Jugraj Singh and the petitioner on a single meeting with the competent authority and decision be taken accordingly within the time frame fixed in this order.

The petition stands disposed of with the above directions.

(RAJIV NARAIN RAINA)
JUDGE

February 26, 2015
Paritosh Kumar