

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

**LPA No.1910 of 2011 (O&M)
Date of decision: 29.07.2015**

Sushil Kumar ...Appellant
Versus
State of Haryana and others ...Respondents

**Coram: Hon'ble Mr. Justice Satish Kumar Mittal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr. D.S. Patwalia, Sr. Advocate with
Mr. Kannan Malik, Advocate for the appellant.

Ms. Kirti Singh, DAG, Haryana.

HARINDER SINGH SIDHU, J.

This intra-Court appeal under Clause X of the Letters Patent has been filed against the judgment dated 04.08.2011 passed by the Learned Single Judge, whereby, CWP No.13600 of 2011 filed by the appellant for quashing the orders Annexures P-17 and P-18 whereby his representation claiming ante-dated promotion and seniority in the rank of Head Constable, had been rejected.

The appellant Sushil Kumar is a graduate. He joined as constable on 13.04.1995. For his good work he has been awarded 35 commendation certificates with cash or without cash reward. He had a good career. He had caught a dreaded criminal namely Vinod Kumar S/o Sh. Sahi Ram Gujjar R/o Garhi Ram Kaur PS Kandhla, District M.Nagar (UP) who was involved in many cases of Robbery and Dacoity. For this act of bravery he was granted appreciation letter by the District Administration Panipat on 15.08.2000, on the

eve of Independence Day, 2000.

The appellant Sushil Kumar was promoted to the rank of Head Constable under ORP policy by the Superintendent of Police, Panipat after getting approval from the Director General of Police, Haryana on 21.08.2001. Under this policy which was formulated with a view to encourage subordinate police officers i.e., constables to Inspector rank, 'out of turn' promotion was granted by the DGP in recognition of some 'Gallant Action' by members of the police force. Under this the Constables, HCs, ASIs, and SIs were allowed to wear badges of the next higher rank against their substantive rank and pay. It was envisaged in the policy (Annexure P-5) that such personnel would get their regular promotion as HCs, ASIs and SIs and Inspectors as per their turn and seniority subject to passing promotional courses on their turn.

The Haryana Government issued notification dated 28.06.2001 and amended Punjab Police Rule 13.7. As per the amended Rule 13.7 for selection of candidates for admission to courses at the Police Training College, a List B (in form 13.7) shall be maintained by each Superintendent of Police which shall include the names of all Constables selected for admission to the Lower School Course to be held at the Police Training College. The number of seats in Lower School Course in a year shall be on the basis of existing vacancies and vacancies likely to be created within one year in the respective unit. 55% of the seats allotted to a unit in

the Lower School Course were to be filled on the basis of a competitive examination, 35% of the seats were to be filled on the basis of seniority-cum-fitness and 10% on the basis of consistent outstanding performance in job/obtaining gold or silver medal in All India Police Game/Duty meet/National games or exceptional bravery in the course of performance of official duty.

The Superintendent of Police, Panipat vide letter dated 21.01.2004 recommended the names of nine persons including the appellant under the 10% quota. Seven out of those nine persons recommended were approved for promotion List B-I by the Central Promotion Committee and after qualifying their Lower School Course in the term ending December, 2004, they were promoted to the rank of Head Constables on 26.04.2005. However the name of the appellant was not approved for the promotion list B-I.

The appellant submitted an application dated 08.02.2007, for inclusion in the List B-I. This time his name was included in the said list under the 10% quota. The appellant passed his Lower School Course in the term ending October, 2007. His name was brought on promotion list C-I w.e.f. 25.10.2007, and he was promoted to the rank of officiating Head Constable w.e.f. 26.10.2008.

Aggrieved of his name not having been included in List B-I, when it was first forwarded in 2004 by the Superintendent of Police, Panipat, the appellant represented before the authorities that

he be given the deemed date of inclusion in List B-I and promotion to the rank of Head Constable from the date when similarly situated persons were so promoted in the year 2004. In particular he claimed that he had a preferential right to inclusion in List B-1 than Constable Ashok Kumar as his act of bravery was two years prior to that of Constable Ashok Kumar.

On this representation, the Inspector General of Police, Rohtak Range forwarded his comments vide Annexure P-16. Vide order dated 20.05.2011, the Director General of Police, rejected the representation of the appellant.

Aggrieved, the appellant filed the writ petition, which was dismissed by the Ld. Single Judge by observing as under:

“The petitioner has enjoyed the ORP promotion. ORP promotion is on the basis of policy and cannot be claimed as a matter of right. No valid justification is offered for grant of promotion from the retrospective effect.”

Learned counsel for the appellant has referred to paragraph 5 of the ORP Policy (Annexure P-5), wherein it is provided that ORP Constable should invariably be regularized under 10% quota of B-I under PPR 13.7 provided that they fulfill the laid down criteria. He emphasized, that the appellant's name was recommended for inclusion in the promotion list B-I under 10% quota of outstanding sportsmen/ exceptional bravery etc. vide letter dated 21.01.2004, but was wrongly not approved. He claims parity of treatment with Constable Ashok Kumar, whose name was amongst

the seven selected persons for inclusion in List B-I out of the nine initially recommended.

Learned counsel for the respondents on the other hand has drawn attention to the communication Annexure P-16 from the Inspector General of Police, Rohtak Range, Rohtak to Director General of Police, Haryana. It has been stated therein that in the year 2003-04, the names of nine officials were recommended by SP, Panipat for 10% quota seats. Out of these, seven were recommended by then I.G. Rohtak Range to Police Headquarter for consideration of their names for 10% quota seats for the year 2003-04. Name of the appellant and one Constable Shamsheer Singh was not recommended. Regarding the claim of the appellant for parity with Constable Ashok Kumar, it has been stated that a perusal of the FIR No.371 dated 08.08.2000, Police Station City Panipat, Panipat under Sections 25, 54 and 59 Arms Act reveals that the appellant along with Constable Pawan Kumar apprehended Vinod @ Jaipal @ Suresh son of Sahi Ram Gujjar, District Muzaffarnagar (U.P.). It was mentioned that the appellant cannot claim parity with Constable Ashok Kumar as the latter's name was recommended on the basis of (1) Police Medal For Gallantry vide HE the President of India's Secretariat Notification No. 134-Pres./2003 dated 17.11.2013 conveyed vide DGP N.169/Estt (H)-1 dated 09.01.2004 (2) Granting CC Class-I with cash regard of Rs. 21000/- in case FIR No.32/2002 of PS Sadar Panipat, (3) Award of appreciation certificate by DC

Panipat on 15th August, 2002, (4) Showing bravery to trace out 18 cases (5) 28 Commendation certificates with cash reward of 22050/- etc.

Having heard learned counsel for the parties, we are satisfied that the appellant cannot claim parity with Constable Ashok Kumar as is evident from the comments of the Inspector General of Police, Rohtak Range, Rohtak which prove that Constable Ashok Kumar achievements are more than that of the appellant. We also agree with the learned Single Judge that regularization of ORP promotion under the 10% quota of B-I cannot be claimed as a matter of right. Such promotion is subject to fulfilling the laid down criteria. It is clearly indicated in the amended Rule 13.7 that the 10% seats shall be common to all units and these seats shall be filled up on the basis of State Level Comparative merit of candidates sponsored by units. Nothing has been pointed out to show that any person selected in the year 2004 is lower in merit than the appellant. As already explained the appellant's grievance regarding Constable Ashok Kumar is without basis.

Accordingly, there is no merit in the appeal and the same is dismissed.

(SATISH KUMAR MITTAL) (HARINDER SINGH SIDHU)
JUDGE JUDGE

29.07.2015
Atul