

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.2141 of 2013 (O&M)
Date of Decision:- 16.07.2015.

Sia Ram

.....Appellant

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

- 1. Whether Reporters of local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr. Suresh Kumar Redhu, Advocate for the appellant.

Mr. Naveen Kaushik, Additional A.G. Haryana.

SURYA KANT, J. (ORAL)

1.) The appellant is aggrieved by order dated 28.11.2011 vide which learned Single Judge has dismissed the writ petition in which he sought a direction to depute him to undergo Lower School Course. The writ petition has been dismissed on the ground that as per Rule 13.7 (2) (ii) of Punjab Police (Haryana Amendment) Rules, 2001, the appellant had completed maximum age of 40 years as on 12.07.2001. The appellant was, thus, held to be over age by the learned Single Judge.

2.) We have heard learned counsel for the parties and gone through the record. It appears to us that learned Single Judge could not be properly assisted as the counsel for appellant was not present and as a result thereto, learned Single Judge has relied upon a rule which was

amended in the year 2001, whereas, the claim of the appellant for deputing him to the Lower School Course pertains to the year 1994 for which he filed the writ petition in the year 1994. The amendment carried out in the year 2001 has no retrospective effect.

3.) As a sequel thereto, the question that needs to be determined pertains to the maximum age limit for deputing a Constable to the promotion course, namely, Lower School Course in the year 1994. The date of birth of the appellant is 12.07.1961. Learned counsel submits that in the year 1994, the maximum age limit was forty years. He refers to Rule 13.7 of the Punjab Police Rules, 1934 as amended vide notification dated 08.09.1992 which was in vogue at the relevant time.

4.) We find that there is a merit in the submission. According to the notification dated 08.09.1992 (Annexure P-2) *“all Constables irrespective of their educational qualifications---xxxx---xxxx”* were eligible to appear for written test if they were *“under the age of forty years and have completed five years of service on the first day of July, for the year in which selection is made.”* The appellant was, thus, within age limit in the year 1994 and his claim cannot be rejected on the ground of he being over age.

5.) Having held that, the question arises whether the appellant who was at serial No.3 in the waiting list (Annexure P-1) had a preferential claim for admission to Lower School Course as compared to Constable Mukat Lal 814, who belonged to reserved category of Scheduled Castes and was at Serial No.4?

6.) Unfortunately, in the written statement/short affidavits which have been filed in the year 2009, the aforementioned aspect has not been

explained by the authorities except to say that the appellant is now working as an exemptee Assistant Sub-Inspector since 03.09.2008. It appears to us that no order prejudicial to the interest of Constable Mukat Lal can be passed and/or needed to be passed at this stage. Suffice it would be to direct the Director General of Police, Haryana to call for the records and determine the appellant's claim as per the eligibility conditions of the year 1994. If the appellant is found entitled for deployment to the Lower School Course, in that case, the Competent Authority shall consider the desirability of granting him deemed benefit by view of appropriate exemption. The appellant, in such eventuality, shall be entitled to only notional benefits and not the arrears of pay. The needful shall be done within a period of four months from the date of receipt of certified copy of this order.

7.) The appeal is allowed; the order passed by learned Single Judge is set aside and the writ petition is disposed of accordingly.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

July 16, 2015.

sandeep sethi