

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CIVIL WRIT PETITION NO. 1300 OF 1996

RESERVED ON : SEPTEMBER 20, 2016

DATE OF DECISION: SEPTEMBER 29, 2016

Raj Kumar Ahluwalia, now Retd. Dy.S.P.Petitioner

Versus

State of Haryana and othersRespondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.SN Yadav, Advocate with
Mr.Aditya Yadav, Advocate for the petitioner.

Mr.Hitesh Pandit, Additional Advocate General,
Haryana.

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TEJINDER SINGH DHINDSA, J.

The petitioner who stands retired from the post of Deputy Superintendent of Police raises a grievance that he should have been sent and deputed for training to the Intermediate School Course as per seniority in the cadre of Head Constables and consequently, be granted promotions to the higher ranks with effect from the date his juniors were so promoted.

2. Challenge in the instant petition is to the order dated 13.2.1997, Annexure P11, and in terms of which, precisely such claim raised by the petitioner has been declined.

3. Learned counsel appearing for the petitioner would vehemently contend that Shri Jagroop Singh, DSP, Shri Ram

Gobind, DSP and Shri Mohinder Singh, DSP were junior to the petitioner having gained entry into service later in point of time and yet were deputed for Intermediate School Course only on the basis that they were outstanding Sportsmen. It was argued that the afore-noticed three officials (private respondents herein), were ostensibly granted benefit under memo dated 11.11.1982 issued by the Director General of Police, Haryana on the subject- **Haryana Police Sports Constitution** and under which it was envisaged that a Sportsman who is selected to represent National Team in different games will be given special consideration for promotion and promotion courses. The precise argument raised is that there is no provision under the Punjab Police Rules, as applicable to the State of Haryana, and under which an official can be deputed to the Intermediate School Course without passing the Lower School Course. It is contended that memo dated 11.11.1982 issued by the Director General of Police, Haryana would, at best, be in the nature of administrative instructions and the same cannot be construed as an amendment to the statutory rules.

4. Learned counsel for the parties have been heard.

5. Perusal of the impugned order rejecting the claim of the petitioner at Annexure P11 would reveal that the representation submitted by the petitioner has been rejected being highly time barred. It has been noticed that the petitioner had not set up any claim and had not submitted a representation prior to the year 1979 and against the benefit granted to Jagroop Singh, Ram Gobind and Mohinder Singh on the basis of they being

outstanding Sportsmen.

6. The Hon'ble Supreme Court in the case of **PS Sadasivaswamyy v. State of Tamil Nadu, AIR 1974 SC 2271** examined the issue of an employee invoking the extra-ordinary writ jurisdiction of a High Court under Article 226 of the Constitution of India at a belated stage in matters of promotion and seniority and held as under:

“A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that 'here is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extra-ordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition should, therefore have been dismissed in limine. Entertaining such petitions is a waste of time of the court. It clogs the work of the Court and impedes the work of the court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant's petition as well as the appeal.”

7. Such view was thereafter even followed by a Division Bench of this Court in the case of **Paramjit Singh Walia v. State of Punjab and others, 2005(2) SCT 131.**

8.

To examine as to whether the claim set forth by the

present petitioner was indeed belated, it would be apposite to notice the service profile of Jagroop Singh i.e. one of the private respondents herein. It has not been disputed that Jagroop Singh joined Haryana Armed Police as a Constable on 1.3.1967 and was promoted as Head Constable on 1.9.1967. On 22.7.1969 he resigned from the Police Department and joined Railways. He was thereafter re-enlisted in Haryana Police on 16.3.1970 as a Head Constable. He was promoted as Sub Inspector of Police on 22.7.1972, placed on list 'E' on 18.11.1974 and confirmed as such on 18.11.1976. Jagroop Singh was promoted as Inspector on 27.6.1974 even before his being brought on list 'E' due to his outstanding merit as a Sportman.

9. Mr.SN Yadav, learned counsel appearing for the petitioner, does not rebut the observation contained in the impugned order that the first representation preferred by the petitioner against the benefits granted to the private respondents on the basis of being Sportsmen was only in the year 1979. Under such circumstances, the dictum laid down in the judgment of the Apex Court in **PS Sadasivaswamy's** case (supra) would apply squarely even to the facts of the present case.

10. In the considered view of this Court, the decision of the respondent-Authorities in holding the claim of the petitioner to be highly belated is well-founded. Holding otherwise would amount to unsettling the settled matters.

11. Even though the submission made by learned counsel for the petitioner that administrative instructions cannot over-ride and supersede the statutory rules, seems attractive at first blush,

but such aspect need not to be gone into on merits. This Court finds the argument and submissions advanced by learned counsel to be self-defeating and contradictory. On the one hand, it has been projected on behalf of the petitioner that private respondents Jagroop Singh, Ram Gobind and Mohinder Singh have been granted benefit of seniority and accelerated promotion de hors the statutory rules and on the other hand, petitioner is seeking a writ of mandamus to direct respondent-Authorities to grant to him the benefit from the dates same was given to private respondents. Such a plea and prayer cannot be accepted. Even if the contention raised by learned counsel appearing for the petitioner was to be accepted, it would only result in holding the benefits granted to the private respondents to be bad in law. In such eventuality, there would be no occasion for this Court to direct the respondents to grant any relief to the petitioner. Two wrongs can never make a right.

12. For the reasons recorded above, this Court does not find any basis that would warrant interference in the matter.

13. Writ petition is dismissed.

SEPTEMBER 29, 2016
SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: *Whether speaking/reasoned?* *Yes/No*

Whether referred to Reporter? *Yes/No*