

**Sr. No. 210
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No.13933 of 2013 (O&M)
Date of Decision: 15.07.2016**

Sukhbir Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present:- Dr. Suresh Kumar Redhu, Advocate,
for the petitioner.

Mr. Hitesh Pandit, Additional A.G., Haryana.

TEJINDER SINGH DHINDSA, J.(ORAL)

The petitioner who was serving as Exemptee Head Constable instituted the present writ petition in the year 2013 seeking issuance of a writ of mandamus directing the respondent authorities to consider his claim for promotion to the rank of Exemptee Assistant Sub Inspector of Police with effect from 24.12.2009.

The prayer aforenoticed was on the strength of Standing Order No.127/2008 issued by the Director General of Police, Haryana dated 22.09.2008 at Annexure P-2.

Notice of motion was issued in the present writ petition on 03.07.2013.

During the course of hearing, learned State counsel would apprise the Court that the petitioner during the pendency of the present petition has been promoted as Exemptee Assistant Sub Inspector with effect from 07.04.2016. Such factual aspect is not disputed by counsel appearing for the petitioner.

Counsel appearing for the petitioner would, however, contend that the petition would still survive inasmuch as the claim in the petition is for grant of promotion to such rank with effect from 24.12.2009. In this regard, counsel refers to the Standing Order dated 22.09.2008 at Annexure P-2 and places reliance upon Clause 2 thereof which reads in the following terms:-

“Head Constables/Exemptee Head Constables/ORP Head Constables would be promoted to the post of Exemptee Assistant Sub Inspector after completion of 22 years qualifying service provided they have completed five years of service in the present rank.”

Counsel would submit that the petitioner who had joined service on the post of Constable on 05.09.1985 had been promoted as Exemptee Head Constable on 24.01.2003. Thereafter in pursuance to regular departmental proceedings having been conducted and award of penalty, the petitioner was reverted to the post of Constable on 24.04.2006 and subsequently again promoted as Exemptee Head Constable on 29.03.2011. As per counsel from the dates so furnished the petitioner has completed five years of service against the post of Exemptee Head Constable and as such would be entitled to be considered and promoted as Exemptee Assistant Sub Inspector with effect from the year 2009.

The submission raised by the counsel is misconceived and proceeds on a clear misreading of Clause 2 of the Standing Order dated 22.09.2008.

A reading of Clause 2 would make it clear that Head Constables, Exemptee Head Constables and ORP Head Constables are eligible to be considered for promotion to the post of Exemptee Assistant

Sub Inspector upon completion of 22 years qualifying service and the proviso in the rule itself states that such police official must have completed five years of service in the present rank. Counsel for the petitioner is wanting this Court to accept the submission whereby the service rendered by the petitioner prior to his reversion in the rank of Exemptee Head Constable to be reckoned towards “**completed five years of service in the present rank**” to view his eligibility for consideration for promotion to the rank of Exemptee Assistant Sub Inspector. The same is not permissible in the light of plain and unambiguous language contained in Clause 2 of the Standing Order dated 22.09.2008.

In the considered view of this Court completed five years of service in the present rank has to relate to continuous five years of service be it in the rank of Head Constable or Exemptee Head Constable or ORP Head Constable. The petitioner admittedly having been reverted from the post of Exemptee Head Constable to the rank of Constable on 24.04.2006 was again promoted as Exemptee Head Constable on 29.03.2011. It is from this date that the five years of service is to be reckoned. Fractured stints on the rank of Exemptee Head Constable and prior to reversion would not count towards “**completed five years of service**” as contemplated in Clause 2 of the Standing Order.

The respondent authorities have rightfully considered the case of the petitioner and have promoted him as Exemptee Head Constable upon completion of five years reckoned with effect from 29.03.2011 and have promoted him to the rank of Exemptee Assistant Sub Inspector with effect from 07.04.2016.

At this stage, yet another submission made by counsel would

require to be dealt with. By again referring to the Standing Order dated 22.09.2008, counsel would place reliance upon Clause 7 (iv) to contend that even though the petitioner after reversion had been again elevated to the rank of Exemptee Head Constable on 29.03.2011 but he was vested with a right to be granted such benefit on 04.05.2008. Suffice it to observe that such contention need not be examined and dealt with on merits by this Court as prayer in the present petition is only with regard to claiming promotion to the rank of Exemptee Assistant Sub Inspector with effect from the year 2009. Insofar as the order of promotion of the petitioner to the post of Exemptee Head Constable issued on 29.03.2011, no challenge to the same was ever laid by the petitioner. In other words, promotion of the petitioner to the rank of Exemptee Head Constable with effect from 29.03.2011 shall be taken to be valid and it is on this basis that his claim was required to be considered for promotion to the rank of Exemptee Assistant Sub Inspector and which has been done by the Department in terms of promoting him to such rank with effect from 07.04.2016.

In view of the reasons recorded above, the present petition is found to be totally bereft of merit.

Petition dismissed.

15.07.2016

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

To be referred to the Reporter.