

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P. No. 735 of 2009

Date of Decision : January 15, 2016

Shyam Sunder and others Petitioners

vs.

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Dr. S. K. Redhu, Advocate
for the petitioners.

Ms. Shruti Jain Goyal, AAG, Haryana.

* * *

DEEPAK SIBAL, J. :

The issue pressed before me is for the issuance of directions to the respondents to depute the petitioners, who are substantively serving the Haryana Police as Constables, for the Lower School Course (hereinafter referred to as – the Course) w.e.f. the year 2002 under the 10% quota earmarked for outstanding sportsmen/persons/Constables who have excelled in service etc. In the alternative, it is prayed that the petitioners' case be considered for deputing them to the Course under the 35% quota, under which candidates are considered on the basis of seniority-cum-fitness.

The issue with regard to deputing the petitioners for Intermediate School Course was not pressed at this stage, with liberty to take up the issue at a later appropriate stage, which is granted.

A few relevant facts, which are required to be noticed are that the petitioners, while serving the respondents as Constables, were recommended by the concerned Superintendent of Police to be deputed for the Course under the 10% quota, which is earmarked for outstanding sportsmen/Constables who have excelled in service etc. Such recommendation was made in January 2004. After over five years, in the year 2009, the petitioners approached this Court seeking a direction to depute them to the Course in view of the aforesaid recommendations made in January 2004. Upon notice having been issued to the State of Haryana, the Court, through their written statement, was informed that since the recommendation of the petitioners was through the Superintendent of Police, and not the Inspector General of Police, as required under the applicable Rules, the same was ignored. On such a stand being taken on behalf of the State, the petitioners amended the writ petition to challenge the rejection of their case under the 10% quota. While the present petition was pending, in the year 2013, the petitioners were offered to be sent to the Course, with effect from the year they were claiming, but under the 35% quota. Due to the pendency of the present writ, the petitioners declined to accept the offer, which led to passing of the order dated 10.10.2015, withdrawing the offer made in the year 2013. The order dated 10.10.2015

has been produced today by the learned counsel for the State, which is ordered to be taken on record as Annexure-A.

So far as the claim of the petitioners for consideration of their case under the 10% quota is concerned, the recommendation of their case was made in January 2004 and the petitioners sought the implementation of such recommendation only in the year 2009 i.e. after an unexplained delay of over five years. The delay on the part of the petitioners, being inordinate and unexplained, cannot be condoned. Even otherwise, no relief can be granted on this count in view of the admitted case between the parties that their initial recommendations made in January 2004, for consideration of their case under the 10% quota, were made by the Superintendent of Police, who was not competent to make any such recommendation under Rule 13.9 of the Punjab Police Rules, 1934, as applicable to Haryana. The recommendation made by an incompetent Authority was rightly ignored.

This brings me to the second issue raised on behalf of the petitioners for consideration of their case to be deputed for the Course under the 35% quota, the offer with regard to which was made to the petitioners in the year 2013. The petitioners had declined to accept the offer leading to the passing of order dated 10.10.2015, a perusal of which shows that primarily, the offer was declined due to the pendency of the present writ petition as the petitioners were sanguine that their case would be decided in their favour, and therefore, had declined to accept the offer at that stage.

There is justification for the petitioners to have declined the

offer at that stage as any litigant, in whose case cognizance has been taken by the Court, is sanguine that the same would be decided in his favour and would want to wait for the outcome of the same.

Irrespective of the above, learned counsel appearing on behalf of the petitioners, on instructions, submits that the petitioners are now willing to accept the offer made in the year 2013 to be admitted to the Course under the 35% quota.

In view of the above, the order dated 10.10.2015 is quashed and the respondents are directed to reconsider the case of the petitioners, in accordance with law, for being admitted to the Course, as offered to them in the year 2013. The needful be done within three months of the receipt of a certified copy of this order.

The writ petition stands disposed of in the above terms.

(DEEPAK SIBAL)
JUDGE

January 15, 2016
monika