

**CM No.280-CWP of 2016 in/and
CWP No. 15567 of 2013
Date of Decision: May 10, 2016**

HC, Dharampaal No.177/Gurgaon

..... Petitioner(s)

Versus

State of Haryana and others

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Suresh Kumar Kaushik, Advocate
for the applicant/petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

DEEPAK SIBAL J. (ORAL)

CM No.280-CWP of 2016

Through this application filed under Section 151 CPC, a prayer is made for disposal of the main writ petition in terms of order dated 23.03.2015 passed by a Division Bench of this Court in **LPA No.921 of 2014** titled as "***HC Virender and others Vs. State of Haryana and others***".

After hearing learned counsel for the parties, with their consent, the main case which had been admitted for regular hearing is ordered to be taken up on board and heard today.

CWP No.15567 of 2013

Through the present petition, the petitioner who serves the Haryana Police as a Head Constable seeks promotion to the post of Assistant Sub Inspector on the ground that juniors to him have been promoted as Assistant Sub Inspectors.

A few relevant facts may be noticed.

On 13.03.2003, the petitioner was appointed as a Constable in the Haryana Police and on 29.10.2010, after having successfully passed the Lower School Course, was promoted as a Head Constable. Thereafter he passed the Intermediate School Course after which through order dated 13.07.2012, he was transferred to District Gurgaon where he joined. The present petition has been filed seeking promotion to the post of Assistant Sub Inspector on the ground that respondent No.5-Rajender Singh who at the time of transfer of the petitioner opted to serve in the petitioner's parent cadre i.e. Haryana Armed Police (HAP), on 13.06.2013 had been promoted to the post of Assistant Sub Inspector and if his seniority vis-a-vis the petitioner, in Haryana Armed Police was considered, he was junior to the petitioner.

Learned counsel for the petitioner submitted that even after the petitioner has been transferred to the district cadre, his seniority would continue to be maintained in his parent cadre and thus on the promotion of his junior in his parent cadre, he was also entitled to promotion with effect from the same date, with all consequential benefits.

In support of his submissions, learned counsel for the petitioner relied upon a judgment rendered by a Single Judge of this Court in ***CWP No.26726 of 2013*** titled as "***HC Suresh Kumar and others Vs. State of Haryana and others***" decided on 17.01.2014 upheld by the Division Bench in an intra Court appeal being **LPA No.921 of 2014** titled as "***HC Virender and others Vs. State of Haryana and others***".

A perusal of the judgment of learned Single Judge in HC Suresh Kumar's case (supra) as also the Division Bench in HC Virender's case (supra) shows that after constables like the petitioner had been transferred from their

letter dated 01.01.2014 had granted an opportunity to all of them to opt to come back to their parent cadre.

In HC Suresh Kumar's case (supra), the learned Single Judge had disposed of the writ petition by granting liberty to the petitioners therein to submit their willingness in response to the letter dated 01.01.2014 within a stipulated time to rejoin their parent cadre. It was further directed that if the said willingness was given by the petitioners therein, the same would be considered and decided by the Competent Authority and in case the decision was in favour of the petitioners therein, they would be taken back in their parent cadre and then considered for being deputed to the B-I course along with other head constables in the parent cadre.

No law to the contrary was cited by the learned State counsel. HC Suresh Kumar's case (supra) could also not be distinguished.

Relying on HC Suresh Kumar's case (supra), on the basis of the aforesaid letter dated 01.01.2014 of the Director General of Police, Haryana, I permit the petitioner to submit his willingness to join his parent cadre-HAP within one week from today and in case he submits his willingness, the same shall be considered and decided by the Competent Authority within four weeks thereafter and if the claim of the petitioner is accepted, he would be taken back in his parent cadre and his claim for promotion shall be then considered as per law.

The writ petition is disposed of in the above terms with no costs.

**(DEEPAK SIBAL)
JUDGE**

May 10, 2016
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