

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.23901 of 2011

Date of Decision:-11.07.2016

ASI Bharat Bhushan Saini.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- None for the Petitioner.

Mr. Vaibhav Sharma, Deputy Advocate General, Punjab.

JASWANT SINGH, J.(ORAL)

Petitioner is working as ASI since 15.10.2009 and is seeking a Mandamus to the official respondents for deputing him to the Upper School Course from the date his junior ASI Sarabjit Singh has been deputed with consequential services benefits like seniority, increment etc.

It is claimed that the petitioner was enlisted as a Constable on 28.01.1985 and after passing of Lower School Course promoted as Head Constable on 17.10.1989 much prior to Sarabjit Singh who was enlisted as Constable on 16.5.1989 and promoted as Head Constable on 01.06.1990. Inspite of the petitioner being senior, the said junior Sarabjit Singh was deputed for Upper School Course in the year 2010 and was granted List E-1 on 10.12.2010 by ignoring the prior claim of the petitioner.

Upon notice, reply by way of affidavit of Assistant Inspector

General of Police has been filed on behalf of the official respondents. The preliminary submissions no.1 & 2 reads as under:-

“ 1. That the petitioner is demanding seniority/promotion at par with ASI Now SI Sarabjit Singh No.739/GSP (Respondent no.4). The service particulars of both the employees are as under:-

Sr.No.	Particulars	ASI Bharat Bhushan No. 76/GSP (Petitioner)	ASI (Now SI) Sarabjit Singh No.739/GSP (Respondent no.4)
1	Date of Birth	06/10/63	15.05.64
2	Caste	GC	BC
3	Date of enlistment	28.01.1985	16.05.85
4	Lower School Course Merit	32/131	101
5	List C-1	01/10/89	01/04/90
6	Date of Promotion as HC	17.10.1989	01/06/90
7	List D-1/D-II	01/10/07(D-1)	4.12.2002(D-II)
8	Date of Promotion as ASI	15.10.09	12/12/02
9	List E-1/E-II	--	10/12/10
10	Date of allocation/promotion as SI	--	11/05/11 (Allocation)

From the above, it is very clear that ASI (Now SI) Sarabjit Singh no.739/GSP (Respondent no.4) was listed on list D-II (exemptee) under Rule 13.21 of PPR, w.e.f. 4.12.02 (Annexure R-1) while the petitioner was listed on list D-1 w.e.f. 1.10.07 (Annexure R-2) and both the officials were promoted as Offg. ASI on 4.12.02 and 15.10.09 respectively. The criteria for deputing the official for Upper School Course is based on the date of promotion as ASI. The relevant extract/Rules annexed as R-3. Therefore, ASI (Now SI) Sarabjit Singh No.739/GSP (Respondent no.4) was deputed for Upper School Course and he was listed on List E-1 on 10.12.10. The

petitioner was promoted as ASI on 15.10.09. Therefore, the petitioner cannot claim seniority/promotion at par with ASI (Now SI) Sarabjit Singh No.739/GSP (Respondent no.4).

2. *The claim of the petitioner is highly belated as he has not challenged the order dated 4.12.2002 whereby the Sarabjit Singh No.739/GSP (Respondent no.4) has given D-II (exemptee).* ”

A perusal of the aforesaid chart depicting the factual position reveals that Sarabjit Singh was promoted as ASI on 12.12.2002 and the said order was never challenged by anybody, more so, by the petitioner. Thus, now in the rank of ASI, Sarabjit Singh became much senior to the petitioner and was, therefore, entitled and duly deputed for Upper School Course much prior in time. Thus the entire basis for seeking the relief in the present writ petition is misplaced.

In view of the above, finding no merit in the present writ petition is hereby dismissed.

(JASWANT SINGH)
JUDGE

July 11, 2016
Vinay