

CWP No. 4974 of 2016. [O&M]
Date of Decision: 09th May, 2016.

Central Administrative Tribunal & Ors. Respondents through
Mr. Sunder Singh, Advocate, for
respondent No. 2.

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The Chandigarh Administration through its Police Department has laid challenge to the order dated 20.10.2015 passed by the Central Administrative Tribunal, Chandigarh Bench whereby Original Application filed by respondent No. 2 was allowed and he has been ordered to be re-instated as a Constable in Chandigarh Police w.e.f. 10.09.2014.

[2]. The controversy pertains to eligibility of respondent No. 2 for appointment as a Constable in the Chandigarh Police. Respondent No. 2 belongs to OBC category. He was earlier serving in the Indian Army in the rank of GDSM which he joined on 18.12.2010. He was discharged from the Army and got Clearance Certificate dated 13.09.2013. He applied for the post of Constable in Chandigarh Police and having been selected, he was appointed on 16.09.2013. On verification of the documents, the police department

formed the view that since respondent No. 2 had not been discharged from the Army and there was no 'Discharge Certificate', he was not eligible for appointment as a Constable on the date of joining. Consequently, his services were dispensed with on 10.09.2014.

[3]. Respondent No. 2 meanwhile approached the Army Authorities to issue a formal 'Discharge Certificate' which was issued to him on 01.11.2014.

[4]. Taking notice of these facts that the Tribunal has allowed the claim of respondent No. 2 vide the impugned order.

[5]. When this writ petition came up for hearing on 16.03.2016, learned counsel for the petitioner – Administration was asked to have instructions whether respondent No. 2 could be taken back in service w.e.f. 01.11.2014, i.e., the date when he was formally discharged by the Army Authorities.

[6]. On the basis of written instructions received by him, learned counsel for the Chandigarh Administration informed this Court that respondent No. 2 can be allowed to join w.e.f. 01.11.2014.

[7]. Meanwhile, respondent No. 2 put in appearance through his counsel and has filed an affidavit accepting the offer of the Police Department, UT, Chandigarh for his appointment as a Constable w.e.f. 01.11.2014.

[8]. In view of the above stated stand taken by both the parties, we allow this writ petition in part, modify the order of the Tribunal to the extent that respondent No. 2 shall be taken to have been appointed as a Constable in Chandigarh Police w.e.f.

01.11.2014 for all intent and purposes including seniority. Taking into consideration totality of the facts and circumstances, it is directed that respondent No. 2 shall be paid 25% of the back-wages, though he shall be entitled to fixation of his pay notionally w.e.f. 01.11.2014. Let appropriate orders re: appointment of respondent No. 2 as Constable w.e.f. 01.11.2014 be passed within one week and arrears be paid within two weeks thereafter.

[9]. Disposed of. Dasti.

(SURYA KANT)
JUDGE

May 09, 2016.
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(A.B.CHAUDHARI)
JUDGE