

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of decision: 25.05.2016

CWP No.7545 of 2016 (O&M)

Satpal Singh & others

...Petitioners

Vs.

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. K.S.Sidhu, Advocate, for the petitioners.

Mr. Harkesh Manuja, Advocate, for the respondents.

Mr. Jatin Salwan, Advocate, for the applicant.

1. *To be referred to the Reporters or not?*
2. *Whether the judgment should be reported in the Digest?*

RAJIV NARAIN RAINA, J. (ORAL)

1. The application i.e. C.M.No.6473 of 2016 for impleading the applicants/direct recruits and the main case itself are taken up for final disposal today itself.

2. Counsel heard. Since the parties are present, notice of the application need not to be issued to receive responses in opposition.

3. Application under Order 1 Rule 10 CPC is allowed despite opposition from the petitioner and request to file reply to the application. The applicants have a clear right to be heard since they are direct recruits of 15.12.2011 in the rank of ASIs, whereas the petitioners were promoted as ASIs later on 18.12.2012 from Head Constables. The right to file a reply is therefore denied in view of the ex facie right of the direct recruits/applicants

to be heard before any order is passed in the main petition. Besides, it would be a useless and empty formality.

4. Consequently, the applicants, as mentioned in Para.3 of the applications, are allowed to be impleaded as party – respondents No.4 to 9. Amended memo of party is taken on record.

5. Since the main petition is being decided with reference to the rights of the petitioners and the applicants, who apparently are senior to the petitioners, the claim of the petitioners in this petition is declined for being deputed to the Upper School Course to qualify them for List-E as per Punjab Police Rules, 1934, as the seniority in the Police Department is fixed according to the continuous length of service on the post in the cadre governed by the provisions of the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994, which prescribe that seniority will be governed by continuous length of service; although prior to the promulgation of the rules, seniority was governed by the old law where direct recruits and promotees came according to roster.

6. The petitioners may have been screened for consideration for being sent to the Upper School Course, but no rights crystallized or matured in their favour by the mere act of their being sent for medical check-ups etc. If at the last moment, the Police Department realized the complications involved in sending the petitioners to the Upper School Course in the face of senior direct recruits not available for lack of requisite experience, then no error was committed by the authorities in declining to send the petitioners to Upper School Course in advance to give them undue benefit. Besides, the course commenced on 25.04.2016 and this is yet another reason which persuades this Court to decline relief, notwithstanding the petitioners had approached this Court before the Course started and was postponed by a

week. But that is not sufficient reason to interfere and direct the State to send the petitioners to the Upper School Course without their rights having matured on the basis of seniority inter se the petitioners and the newly added applicants/direct recruits. Mr. Manuja on instructions from the Department has stated that 4 posts which would remain vacant by non-deputing the petitioners will be added to the vacancies/seats in the next Course to be conducted after the current one finishes.

7. For these reasons, I find no cogent ground to interfere in the impugned order withholding the names of the petitioners for sending them to the Upper School Course. No substantial injustice has been done to the petitioners by the impugned order, as their rights to seniority will continue to be governed by rules of service and not from the date of passing the course which is only a condition of eligibility for promotion to higher rank. Accordingly, the petition is dismissed.

25.05.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE