

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14117-1998 (O&M)
Date of decision: 13.01.2017

Om Parkash

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Rameshwar Sharma, Advocate for the petitioner
Mr.Naveen Sheoran, DAG Haryana

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

Petitioner retired as Sub Inspector from Government Railway Police as Constable on 30.12.1987. he was promoted as Assistant Sub Inspector w.e.f. 1.9.1976. Petitioner was reverted to the post of Head Constable w.e.f. 29.11.1978. Petitioner challenged the said reversion before the Civil Court. Ultimately, vide judgment dated 13.12.1994, learned Additional District Judge set aside the said reversion. Against the said order, the department preferred Regular Second Appeal No.593 of 1995, which was dismissed by this Court on 6.4.1995. In the meanwhile, the petitioner retired from service in the year 1994. Earlier, the petitioner preferred Civil Writ Petition No.1943 of 1997 for directing the respondents to fix and finalize his seniority with all consequential benefits of promotion and arrears. The said writ petition was disposed of by a Division Bench of this Court on 07.2.1997 with a direction to the respondents to consider the representation

of the petitioner (Annexure P10) and dispose of the same expeditiously preferably within three months from the date of receipt of a copy of the order by passing a speaking order. Accordingly, the matter was considered by the Deputy Inspector General of Police Railway and Commando, Haryana, Panchkula and vide order endorsed on 23.5.1997 (Annexure P9), the petitioner was promoted as Sub Inspector w.e.f. 16.8.1981 and confirmed as Sub Inspector on 30.9.1986 (Annexure P23). His claim for bringing his name on list F for promotion as Inspector and DSP was sent to the competent authority i.e. Director General of Police, Haryana, Panchkula.

It comes out that Director General of Police, Haryana, after considering the record of the petitioner, passed order endorsed on 6.5.1998 (Annexure P11), vide which, the claim of the petitioner for promotion as Inspector was declined on the ground that he was granted two major punishments i.e. one punishment of stoppage of one increment with permanent effect in the year 1979 and another punishment of stoppage of one increment with permanent effect in the year 1981.

In the reply, the respondents have not disputed the factual position. It is stated that since the petitioner was granted two major punishments of stoppage of one increment each with permanent effect, therefore, he could not be promoted as Inspector and consequently DSP. Reference has been made to Punjab Police Rule 13.14(2) which bars the promotion of Sub Inspector to the higher rank where major punishment has been awarded. Therefore, it was maintained that the petitioner could not be further promoted from the rank of Sub Inspector.

I have heard learned counsel for the parties and have carefully gone through the file.

Since the petitioner had retired before the decision of Regular Second Appeal, in which, his reversion from the post of Assistant Sub Inspector to Head Constable, was set aside, therefore, in pursuance to the directions given by this Court, he has now been promoted by the Deputy Inspector General of Police as Sub Inspector w.e.f. 16.8.1981 and he has been confirmed as Sub Inspector w.e.f. 30.9.1986 vide order endorsed on 23.5.1997 (Annexure P9). The promotion to the rank of Inspector and further promotion has been declined by invoking the provisions of Punjab Police Rule 13.14(2), which is reproduced as under:-

“2. No Sub Inspector shall be considered eligible for promotion to a selection grade unless he has at least eight years approved service as an upper subordinate of which at least five shall have been in the rank of Sub Inspector and unless he is thoroughly efficient and competent to hold charge of a Police Station of first class importance. No Sub Inspector who has been punished by reduction, stoppage of increment or forfeiture of approved service for increment, shall be eligible for promotion to a selection grade. Exceptions to this rule may be made only with the sanction of the Inspector General in recognition of distinguished service and exemplary conduct.”

Rule can be split into two parts. First is that he should have eight years approved service as an upper subordinate of which at least five should have been in the rank of Sub Inspector. Since the petitioner stood promoted w.e.f. 16.8.1981, therefore, during his service he completed said eight years of service and completed five years service as Sub Inspector on 16.8.1986. He was already confirmed as Sub Inspector w.e.f. 30.9.1986. The promotion order as Sub Inspector was passed after considering entire service record of the petitioner. Therefore, any punishment awarded prior to that is to be ignored. Therefore, petitioner fulfills first criteria under Punjab

Police Rule 13.14(2). Second part is that he should be thoroughly efficient and competent to hold charge of a police station of first class importance and no Sub Inspector who has been punished for reduction, stoppage of increment or forfeiture of approved service for increment shall be eligible for promotion to the selection grade. Exception to this Rule may be made only to the sanction of the Inspector General in recognition of distinguished service and exemplary conduct. The promotion has been denied only on the ground of two punishment orders. In the impugned order Annexure P11, it is never recorded that the petitioner is not efficient and competent to hold charge of a police station of first class importance. The perusal of the punishment clause shows that the punishment pertains to the period an employee hold the post of Sub Inspector. In the present case, two punishments were otherwise awarded to the petitioner before he was promoted as Sub Inspector and confirmed as such. These punishments were taken into consideration while promoting and confirming him as Sub Inspector. Therefore, these punishments were not awarded when the petitioner was acting as Sub Inspector. Therefore, the Director General of Police wrongly invoked the provisions of Punjab Police Rule 13.14(2) to deny the promotion to the petitioner from Sub Inspector to Inspector. As such, the impugned order (Annexure P11) passed by the Director General of Police, Haryana is hereby quashed. Since no other ground has been pressed by State to deny promotion and the petitioner is eligible for promotion as Inspector, therefore, he is ordered to be promoted as Inspector from the due date. Thereafter, the respondents are also directed to consider his case for promotion as DSP and if he is found eligible for the said promotion, notional promotion as DSP shall also be granted to him. Needless to say that he shall

also be granted all the consequential benefits.

The petition is allowed accordingly.

13.01.2017
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes
Yes