

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

**CWP No.9239 of 1997 (O&M)
Date of Decision : 20th January, 2017**

Amar Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Ramesh Hooda, Advocate
for the petitioner.

Ms. Shruti Jain, Goyal, AAG, Haryana
for the respondent(s)-State.

AJAY TEWARI, J. (Oral)

By this petition, the petitioner is claiming seniority over respondent Nos.6, 7 and 8.

Brief facts of the case are that the petitioner was appointed as Constable on 05.05.1970 in Haryana Armed Police, Madhuban District Karnal. Thereafter, he went on deputation to Police Training College, Madhuban. Over there, there were better promotional revenues and consequently, the petitioner was called up for promotional courses earlier than his other batch mates in the Haryana Armed Police and was promoted on ad-hoc basis up to the post of Sub Inspector. Thereafter, he was repatriated back to the Haryana Armed Police and was reverted to the rank of Assistant Sub Inspector. (It may be mentioned that in the writ petition the petitioner had also challenged the order of repatriation but learned counsel for the petitioner does not press the said prayer). By the present

writ petition, the petitioner claims that he could not be placed lower than respondent Nos.6 to 8. (At this stage of arguments, learned counsel for the petitioner has withdrawn the claim of seniority over respondent No.6 and restricts the claim only to respondent Nos.7 and 8).

As regards respondent Nos.7 and 8, the simple case of the petitioner is that they were both junior to him even in the Haryana Armed Police and therefore, he must be granted seniority over them. (The fact that respondent Nos.7 and 8 were junior to the petitioner in the Haryana Armed Police is not disputed).

As regards respondent No.7, it is explained that he had been given ad-hoc promotion and had then filed CWP No.2910 of 1988 claiming that he would have been substantively promoted from the date he had been given ad-hoc promotion and was given promotion on the directions given by this Court.

As regards respondent No.8, he was originally granted promotion against sports quota. Since his promotion exceeded 10% quota under Rule 13.8 of Punjab Police Rules, 1934 his seniority was sought to be refixed. He challenged that order by filing CWP No.4537 of 1995 in which refixation of his seniority was stayed. Ultimately that writ petition was disposed of on 26.07.2013 with the following order:-

“With the efflux of time, the instant petition has been rendered infructuous.

The facts of the case would reveal that the petitioner joined the service in 1971 and by now would have retired. There was an interim order by which the impugned action of the respondents was stayed. Consequently, whatever benefits that had accrued to the petitioner vis-a-vis his seniority and his

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being a sportsman and the additional benefits would have enured to him during his service tenure.

In view of the above, when evidently, the petitioner would have retired from service, the prayer made in the instant petition has been rendered illusory and therefore, the petition is disposed of as having become infructuous.”

As per learned counsel for the petitioner, this order nowhere accepts the case of respondent No.8-Fateh Singh but has only granted him a concession because he had in the meantime retired.

Learned State counsel points out that even if this is so still the petitioner cannot claim that he be placed above respondent No.8. However, with regard to respondent No.7-Faqir Chand, I accept this argument since the case of the petitioner is on the same footing. Once a particular seniority was granted to respondent No.7-Faqir Chand, the petitioner, who is his senior, could not have been placed below him.

In these circumstances, the petition is disposed of and it is directed that the petitioner be placed above respondent No.7-Faqir Chand at every stage. However, since he has now retired, he would be entitled only to the notional benefits and the substantive benefits would be limited only to his superannuation dues. Let the respondents now work out on the notional benefits and increased superannuation dues which would be payable to the petitioner and pay them to him within five months. However, it is made clear that in any case the said payment is not made within five months, the petitioner would be entitled to any due relief with interest @ 12% per annum w.e.f. the date/s the amount/s fell due.

20th January, 2017

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Whether speaking/reasoned
Whether Reportable :

**(AJAY TEWARI)
JUDGE**

Yes/No
Yes/No