

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

CWP-14721-2013

Date of decision: 07.04.2017

Balwinder Kaur

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Kanwal Goyal, Advocate,
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab

JAISHREE THAKUR, J.

1. The petitioner herein is aggrieved against denial of promotion to the post of Head Constable w.e.f. 01.04.2003 and seeks to quash the impugned order dated 05.10.2012 (Annexure P-7) by which her appeal has been rejected.

2. In brief, facts are that the petitioner joined Punjab Police as Constable on 08.04.1997 in District Hoshiarpur. On 15.10.2002, she was deputed to undergo Lower School Course which she passed in the session March 2003. The name of the petitioner was entered in the promotion list C-1 w.e.f. 01.04.2003 vide an office order dated 22.08.2003. Thereafter, the petitioner was promoted to the post of Head Constable by order dated 20.10.2003. Having completed her Course in March, 2003, the petitioner made a representation to the respondents that she should be given promotion on the date when she had completed her Lower School Course.

The representation and the appeal were subsequently rejected on the ground

that the result of the Lower School Course was sent to the respondent-Department by the Director, P.P.A. Phillaur on 22.08.2003. After the result was received, a Promotion Committee was constituted and the said Promotion Committee was asked to check the record and send its recommendation. After the recommendation of the Promotion Committee were received, the petitioner was promoted as Head Constable w.e.f. 20.10.2003.

Learned counsel appearing on behalf of the petitioner contends that posts were vacant and were available as on 01.04.2003 and on account of the fact that she had completed her Lower School Course in March, 2003, she should have been appointed from the date when the posts were vacant. It is also contended that a Lady Constable, namely, Devinder Kaur No. 717/JALL who was deputed to the same batch of Lower School Course i.e. Session March 2003, whose result was declared by the P.P.A. Phillaur vide the very same list i.e. the list dated 12.06.2003, made a representation to respondent No.3 that she be promoted to the post of Head Constable w.e.f. 01.04.2003 i.e. the date with effect from which her name was entered into the promotion list C-1. The representation of Devinder Kaur was accepted and she has been given a deemed date of promotion w.e.f. 01.04.2003.

Per contra, learned counsel appearing on behalf of the respondents-State would submit that the petitioner along with two other Constables were brought on the promotion list w.e.f. 01.04.2003. After that a DPC was constituted and on receipt of recommendations of the DPC, the petitioner along with other Lady Constables were promoted as Head Constable w.e.f. 13.10.2003 and, therefore, there is no infirmity in the order

that has been passed.

I have heard learned counsel for the parties and only question that arises is whether the petitioner whose name was reflected on the C-1 list as on 01.04.2003 would be entitled to be promoted to the post of Head Constable on the date when her name was brought on the C-1 list or from the date when the DPC made its recommendation.

As per Rule 13.8 of the Punjab Police Rules, 1934 List C specifies procedure for appointment/promotion to Head Constables. In each district a list is maintained of all constables who have passed the Lower School Course at Phillaur and are considered eligible for promotion to Head Constable. A Card shall be prepared for each Constable admitted to the list and shall contain his marking under sub-rule 13.5 (2) and notes by the Superintendent himself or furnished by Gazetted Officers which in turn is to be scrutinized and approved by the Deputy Inspector General of police at his annual inspection. Promotions to Head Constable shall be made in accordance with the principle described in sub-rules 13.1 (1) and (2) with further qualification that date of admission to list C shall not be material, but the order of merit in which examinations have been passed shall be taken into consideration in comparing qualifications. Therefore, once a person has been brought on to the list C promotion to the post of Head Constable is not automatic.

It has been held in a series of decisions of the Apex Court that a promotion takes effect from the date of being granted and not from the date of occurrence of vacancy or creation of the post. In this regard reliance can be placed on a number of descions of the Apex Court, *Union of India v.*

K.K. Vadera [1989 Supp (2) SCC 625 : 1990 SCC (L&S) 127], State of Uttaranchal v. Dinesh Kumar Sharma [(2007) 1 SCC 683 : (2007) 1 SCC (L&S) 594], K.V. Subba Rao v. Govt. of A.P. [(1988) 2 SCC 201 : 1988 SCC (L&S) 506 : (1988) 7 ATC 94] , Sanjay K. Sinha-II v. State of Bihar [(2004) 10 SCC 734 : 2005 SCC (L&S) 169], Nirmal Chandra Sinha vs Union Of India & Ors. (2008) 14 SCC 29.

Admittedly, the petitioner completed her Lower School Course in March, 2003 and her name was reflected in C-1 list as on 01.04.2003. A DPC was constituted in the month of July, 2003 after receipt of the result from the Police Academy at Phillaur, the DPC recommended the promotion of the petitioner only in October, 2003. What has to be taken note of is that mere completion of the Lower School Course would not itself simpliciter entitle the petitioner to promotion. The matter has to be considered by the DPC by taking into account other factors as well and is only after a recommendation has been made that a candidate would have entitled to promotion. The law in this regard is well settled that the person is only entitled to be considered for promotion and a candidate cannot claim promotion as a matter of right. The petitioner herein is not in a position to state that anyone in her district has been given promotion over and above her. The other candidate who had also appeared for the Lower School Course, has also been given promotion after the result was received from PAP Phillaur. As regards the claim of the petitioner for being equated with Ms. Devinder Kaur, would have no bearing to the case in hand as Lady Constable Devinder Kaur was promoted in another district that is District Jalandhar.

Therefor, I am of the opinion that the petitioner has not been able to establish infringement of a legal right to warrant any interference by this court. The writ petition is dismissed being devoid of any merit.

07.04.2017
Satyawar

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.