

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 19052 of 2013
Date of decision: 24.07.2017

Hukum Singh and others

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Ms. Sonia G. Singh, Advocate,
Mr. Rajesh Goyal, Advocate,
Mr. Naveen S. Bhardwaj, Advocate,
for the petitioners.

Ms. Shruti Jain Goyal, AAG, Haryana.

Mr. Neeraj Sharma, Advocate,
for respondent no. 6.

G.S.SANDHAWALIA, J. (Oral)

The present judgment shall dispose of 4 writ petitions i.e. CWP Nos. 9052, 19625 and 27125 of 2013 and 10489 of 2016, as common questions of facts and law are involved in all the writ petitions. Facts are being taken from ***CWP No. 19052 of 2013, Hukum Singh and others vs. State of Haryana and others.***

The petitioners challenge the communication dated 23.07.2013 (Annexure P-4) whereby, respondent no. 2-Director General of Police, Haryana has issued directions to the Commissioner of Police, Ambala-Panchkula and the Inspector General of Police, Rohtak Range to withdraw the promotion orders in respect of the officials mentioned in the memo dated 16.05.2013 (Annexure P-3). Challenge has also been raised to the subsequent show cause notice issued accordingly (Annexure P-5) whereby,

the benefit granted of promotion vide order dated 29.10.2011 to the post of Sub Inspector of Police was sought to be withdrawn and the petitioners were given notice to file their replies with the Inspector General of Police, Rohtak.

It is to be noticed that while issuing notice of motion, the petitioners had been protected and the operation of the order dated 23.07.2013 (Annexure P-4) had been ordered to be stayed till further orders.

Counsel for the State has referred to the reasoning given in the communication dated 16.05.2013 (Annexure P-3) whereby, while implementing the directions passed by this Court in CWP No. 8364 of 2013 filed by H.C. Mehar Lal belonging to Yamuna Nagar, recommendations had accordingly been made by the Inspector General of Police, Karnal range which are now being acted upon. Counsel has further justified the stand as such taken in the written statement that the promotion granted by the Inspector General of Police, Rohak to the petitioners in October, 2011 after the creation of the Karnal range on 29.09.2011 was not justifiable and it is in such circumstances the said benefit is sought to be withdrawn.

On the other hand, counsel for the petitioners has submitted that their case falls within the ambit of the policy dated 08.10.2012 (Annexure P-6) as to how the seniority is to be maintained and how the cadre and lien as such is to be maintained on the bifurcation or on the creation of the new range.

A perusal of the writ petition would, however, go on to show that the dispute actually arose on account of directions issued on 22.04.2013 in ***CWP No. 8364 of 2013, Mehar Pal vs. State of Haryana and others*** (Annexure P-1). In the said case, Mehar Pal (respondent no. 6 in the present

writ petition), had filed the said writ petition claiming that one Suresh Kumar had been granted promotion to the post of Head Constable on 01.06.2009 who had been enlisted alongwith him and, thereafter had been sent for intermediate school course in the year 2011 and promoted as ASI on 09.09.2011 and, therefore, had raised a grievance as to the fact that he had been discriminated. Resultantly, directions had been issued to take a decision on his legal notice dated 18.07.2012. In pursuance of the said directions issued, the promotions which were granted to the petitioners way back in October, 2011 had been sought to be upset in view of the communication addressed by the Inspector General of Police, Karnal to respondent no. 2 on 16.05.2013 (Annexure P-3), who has further issued the letter dated 23.07.2013 (Annexure P-4).

Admittedly, only a show cause notice as such had been issued to the petitioners, which is also subject matter of challenge. In such circumstances, this Court is of the opinion that firstly the petitioners have the remedy to approach the respondents by filing a detailed reply to the said show cause notice who shall take into consideration their replies and thereafter the concerned Inspector General of Police shall pass orders as to on what basis the promotion which was granted almost 1-1/2 years prior to the issuance of show cause notice is sought to be withdrawn. The petitioners will accordingly be given opportunity of hearing to substantiate their cases and thereafter, a reasoned order will be passed.

Needless to say merely because a recommendation as such has been made by respondent no. 2 on account of a communication received from the Inspector General of Police, Karnal on 16.05.2013 would not, as such, mean that the respondents would not take into consideration the

defence which is set up or the replies which are to be filed. It has also been further brought to the notice of this Court that subsequently on 02.02.2017 in supersession of earlier notification, more police ranges have been established comprising of Ambala, Karnal, Rohtak, Hisar and South Range, Rewari which are headed by the rank of the Inspector General of Police. Resultantly, the competent Inspector General of Police shall issue fresh notices to the petitioners within a period of 4 weeks from today and take into consideration the replies filed by them thereafter and take appropriate steps to comply with the abovesaid directions. The petitioners shall cooperate and also file their replies within a period of four weeks from receipt of fresh show cause notices issued to them. The interim protection shall continue till a fresh decision is taken and the petitioners will be given 2 weeks' more time in case any adverse order is passed against them.

With the above said observations, the writ petitions stand disposed of.

24.07.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No