

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP- 10033-2009 (O&M)
Date of decision: 12.07.2018

HC Baljinder Singh and others

.....Petitioners

versus

The State of Punjab and another

.....Respondents

CWP- 8718-2010 (O&M)

HC Narinder Singh and others

.....Petitioners

versus

The State of Punjab and another

.....Respondents

CORAM: Hon'ble Mr.Justice A.B.Chaudhari
Hon'ble Mr.Justice Kuldip Singh

Present: Mr.S.K.Sharma, Advocate for the petitioners
in both the cases
Mr.Monica Chhibber Sharma, Senior DAG Punjab

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

Kuldip Singh, J.

By this single judgment, we shall dispose of two connected

CWP Nos.10033 of 2009 and 8718 of 2010.

In CWP 10033-2009, petitioners, who are working as Head

Constables in Punjab Police, have impugned order dated 17.9.2008 (Annexure P33), passed by respondent no.2, Director General of Police, Punjab, whereby the claim of the petitioners for local rank to the next rank as per instructions dated 8.2.2005 (Annexure P26) was declined.

Mandamus was sought for directing the respondents to promote the petitioners to the local rank as per instructions issued by the Chief Minister, Punjab.

In CWP 8718-2010, petitioners have sought the quashing of order dated 8.2.2005 (Annexure P23) passed by respondent no.2, Director General of Police, Punjab and subsequent implementation of the same vide order dated 17.9.2008 (Annexure P29), vide which, it was ordered that only those persons who have obtained 1st, 2nd and 3rd position in University in M.A. (Police Administration) are to be given one rank promotion as per instructions dated 8.2.2005 (Annexure P23) as the instructions were issued without approval of the State Government under Section 12 of the Police Act and are in derogation to the instructions of the Chief Minister, who is the incharge of Home Department. It is also discriminatory as similarly situated police officials have been promoted to the higher rank.

Facts are extracted from CWP 10033-2009. Petitioners herein are working in Punjab Police as Head Constables. It is stated that the Chief Minister, Punjab on 28.11.2002 on the occasion of 4th Convocation held at the Punjab Police Academy, Phillaur announced the decision of the State Government that those police personnel who have qualified M.A. (Police Administration) examination from Guru Nank Dev University, Amritsar will be given one rank promotion upto the rank of Inspector. The decision was conveyed by Director, Punjab Police Academy, Phillaur to all the gazetted

officers, Station House Officers and Incharge Branches, DPO, Amritsar vide TPM No.355-400/HC/PPA dated 29.11.2002. In pursuance to the said decision, Director General of Police, Punjab promoted 19 police officials of different ranks to the next higher rank through letter No.4226-35/E-6 dated 20.2.2003. In pursuance to the said decision of the Chief Minister, Punjab, the petitioners applied for permission to join M.A. (Police Administration) and appear in the said Post Graduation Degree examination in the year 2004. The permission was granted. They passed 1st part of M.A. (Police Administration) in April 2005 and 2nd Part in April 2006 and completed MA Degree in April 2006. Due to the decision of the Government, they spent money, time and labour to pass M.A. (Police Administration) examination.

Vide another letter dated 13.9.2004, three Head Constables were promoted to the rank of ASI who had passed M.A. (Police Administration). Vide letter No.3051/E-6 dated 8.2.2005, Director General of Police, Punjab changed the policy decision on 28.11.2002 (Annexure P26) and laid down the following criteria for giving one rank promotion:-

<i>Sr.No.</i>	<i>Degree/Course</i>	<i>Promotion</i>
<i>1</i>	<i>M.A. In Police Admn From GNDU through PPA/ Phillaur</i>	<i>Only constables and HCs would be eligible for a step up local rank and that too would be limited to those attaining the 1st, 2nd & 3rd ranks respectively in the University.</i>
<i>2</i>	<i>M.Phill in Police Admn from GNDU through PPA Phillaur</i>	<i>Constables, HCs and ASIs who attained 1st Division would be eligible for a step up local rank</i>
<i>3</i>	<i>Ph.D. in Police Admn from GNDU through PPA Phillaur</i>	<i>All official from the rank of ASI to SI would be eligible for One Adhoc Promotion</i>
<i>4</i>	<i>LL.B. From Panjab University Chandigarh</i>	<i>All officials from the rank of ASI to SI would be eligible for one adhoc promotion.</i>

<i>Sr.No.</i>	<i>Degree/Course</i>	<i>Promotion</i>
5	<i>One year course in Criminology from Panjab University Chandigarh</i>	<i>Officials from the rank of Constable to SI would be eligible for a step up local rank.</i>
6	<i>2 years course in Forensic Science from Panjab University Chandigarh</i>	<i>Officials from the rank of constable to S.I. Would be eligible for one adhoc promotion</i>
7	<i>One year course in Criminology in Forensic Science from NICFS, New Delhi</i>	<i>Officials from the rank of Constable to S.I. Would be eligible for a step up local rank.</i>
8	<i>2 years course in Criminology and Forensic Science from NICFS, New Delhi</i>	<i>Officials from the rank of constables of S.I. Would be eligible for one adhoc promotion.</i>

Said instructions dated 8.2.2005 issued by Director General of Police, Punjab are in contravention to the decision dated 28.11.2002 announced by the Chief Minister, Punjab and passed without taking the approval of Chief Minister, Punjab. The said instructions are illegal, unfair and hit by the principles of Promissory Estoppel. The police officers who had passed M.A. (Police Administration) in April 2005 submitted the representation to the Director General of Police, Punjab to take note of the policy decision dated 28.11.2002. The said representation was rejected stating that the petitioners are not covered under the amended policy. Petitioners are similarly situated to those police officials who have been given promotions vide order dated 29.12.2006, after passing examination after 8.2.2005, whereas the petitioners were studying in M.A. (Police Administration) Part-1 at the time of changing of criteria for promotion.

In CWP 8718-2010, petitioners have sought quashing of policy decision dated 8.2.2005 taken by the Director General of Police, Punjab and the subsequent order dated 17.9.2008.

The State in the reply filed by way of counter affidavit of Shri M.S.Chhina, Assistant Inspector General of Police (Welfare & Litigation), Punjab took a stand that during the 4th Convocation of Punjab Police Academy, Phillaur on 28.11.2002, the Chief Minister, Punjab declared that one rank promotion upto the rank of Inspector will be given to those police personnel who have qualified M.A. or M.Phil or Ph.D. in Police Administration Examination through Punjab Police Academy, Phillaur. Accordingly, DGP office requested the Home Department vide memo No.4075/ E-6 dated 18.2.2003 to grant necessary approval for giving one rank promotion upto the rank of Inspector to such officials. The State Government was also requested to amend Rule 13.1 and a proviso (4) may be inserted under Rule 13 of Punjab Police Rules, 1934 (in short, 'PPR') for promotion for one rank to another and for implementation of order of Chief Minister, Punjab. During the pendency of the said proposal, it was decided by the DGP Office to grant one rank to such police officials who have passed M.A. (Police Administration) under Rule 13.2A of PPR. In the year 2002, 5 constables, 3 Head Constables, 10 Assistant Sub Inspectors and 1 Sub Inspector (total 19 officials) had qualified these higher police academic programmes from Guru Nank Dev University, Amritsar through Punjab Police Academy, Phillaur. They were granted one higher local rank by DGP office vide Memo No.4226-35/E-6 dated 20.2.2003 (Annexure R2) as an interim measure till the proposal for amendment in the Rule 13.1 of PPR is approved. Thereafter, a large number of police officials started staking their claim for higher rank after passing M.A. (Police Administration). In the year 2004, approximately 100 police officials completed their Masters in Police Administration from Punjab Police Academy, Phillaur. In addition,

202 officials had enrolled for M.A Part-II and another 517 for M.A. Part-I. Number was likely to grow because police officials made this as only a route to jump to the next higher rank. Department was not in a position to grant such large local ranks. Therefore, a meeting chaired by Additional DGP Admn. was held, in which it was unanimously decided that there was a need to re-look in the present system of granting a local rank to all officials who cleared Master's Degree in Police Administration. It was proposed to limit the grant of local rank to those attaining 1st, 2nd and 3rd ranks in the University. It was also felt that some other subjects in addition to Police Administration, like Forensic Science should be encouraged. The decision was taken vide Memo dated 8.2.2005 (Annexure R4). Therefore, DGP vide Memo No.9130/E-6 dated 16.3.2005 (Annexure R5) requested the State Government to drop the proposal for amendment in the Punjab Police Rules, 1934. The matter was thoroughly examined by the State Government and ultimately proposal of amendment in PPR was dropped by the Government vide Memo No.15/44/2003-5H3/2778 dated 9.8.2005 (Annexure R6). Petitioners claimed the benefit of policy decision announced by the Chief Minister, Punjab on 28.11.2002. The statement of Chief Minister, Punjab was verbal statement and notification in this regard was required to be issued and provisions of Rule 13.1 of PPR were also required to be amended to implement the decision of Chief Minister, Punjab. Accordingly, DGP had requested the State Government vide letter dated 18.2.2003 to amend Rule 13.1 of PPR. But the proposal was later on dropped vide Memo dated 9.8.2005 (Annexure R6). Provisions of Rule 13.2A are already available, so the instructions 8.2.2005 issued by DGP are not illegal.

Respondents denied the claim of the petitioners stating that they have got no

right to get one local rank promotion in pursuance to the announcement made by the Chief Minister, Punjab.

We have heard learned counsel for the petitioners, learned State Counsel and have also carefully examined the record.

Petitioners claim that the Chief Minister, Punjab made announcement during 4th Convocation held at the Punjab Police Academy, Phillaur to grant one rank promotion upto the rank of Inspector to those who have qualified M.A. and M.Phil in Police Administration Examination through Punjab Police Academy, Phillaur.

Admittedly, the DGP moved the State Government vide memo dated 18.2.2003 to amend the PPR to give effect to the announcement made by the Chief Minister, Punjab. The announcement made by the Chief Minister, Punjab itself has no force of law. The announcement is to be given shape of Administrative Order by amending the requisite Rules. Therefore, merely, on the basis of the announcement of the Chief Minister, Punjab petitioners cannot claim one step of local rank. It appears from the various orders placed on file that in pursuance to the said directions and pending decision of the State Government, various orders were passed giving one rank promotion under PPR Rule 13.1. Relevant Rule 13.2A of PPR allowing the one higher local rank by Inspector General of Police is reproduced as under:-

13.2-A. Power to grant local rank. - (1) Notwithstanding anything contained in these rules, if the Inspector General of Police considers it necessary so to do in the interest of better functioning of the force, he may, for reasons to be recorded, grant to an enrolled police officer next higher rank as a local rank;

Provided that the grant of only a non-gazetted rank shall

be permissible under this rule.

(2) The local rank referred to in sub-rule (1) shall, in the first instance be granted for a period not exceeding six months which may from time to time be extended for a like period after recording reasons for each such extension.

(3) An officer of the force holding a local rank -

(a) shall exercise the command and be vested with the powers of an enrolled police officer holding that rank;

(b) shall not be entitled to any extra pay and allowances for holding such rank;

(c) shall not be entitled to claim any seniority over other enrolled police officers by virtue of having held such a local rank.

Therefore, it is clear that under the existing Rule 13.2A, Inspector General of Police could grant one next higher rank as local rank for the period not exceeding six months, which may, from time to time be extended for a like period after recording reasons for each such extension subject to certain conditions mentioned in the said Rules.

It comes out from the orders dated 18.2.2003 and 20.2.2003 passed by Director General of Police, Punjab and some other subsequent orders that pending decision of the Government, certain local ranks were given under PPR after considering the announcement made by the Chief Minister, Punjab. These were only for a limited period of six months to be extended for further six months after recording reasons. Suddenly, there was a spurt in the persons enrolling for M.A. (Police Administration) examination and the department felt heat of implementing the announcement made by the Chief Minister, Punjab without amending the Rules. The department was apparently unable to grant such one higher local rank to large number of police officials/ officers. Therefore, a meeting was

held and a decision was taken on 8.2.2005 to limit the grant of local rank to the officials who obtained 1st, 2nd and 3rd rank in University in Master or other higher degrees. The extract of the same are already reproduced above.

Learned counsel for the petitioners has argued that the DGP had no power to take a decision dated 8.2.2005 without the approval of the Government. Even if it is so, even then the petitioners will not be entitled to one higher local rank only on the basis of the verbal announcement made by the Chief Minister, Punjab without amending the relevant Rules or issuing written order or notification to enforce the said announcement. Under PPR, the department is competent to grant one local rank. Therefore, the DGP could issue instructions to the lower competent authority as to which guidelines are to be followed while granting one local rank in certain cases. The said ad hoc administrative instructions are always subject to the approval of the State Government under the relevant Rules.

It being so, we are of the considered opinion that merely on the basis of the announcement made by the Chief Minister, Punjab, no higher local rank could be granted to the petitioners. The petitioners had qualified M.A. (Police Administration) examination in April 2006. The policy was amended by DGP in April 2005. Therefore, as they had passed the examination after the said decision, therefore, they were not entitled to the next higher local rank when they had qualified the M.A. (Police Administration) examination. Therefore, their representation was rightly rejected by the Director General of Police, Punjab vide order dated 17.9.2008 (Annexure P33).

So far as plea of learned counsel for the petitioners regarding discrimination and Promissory Estoppel is concerned, after the change of

the policy which was due to large number of police personnel qualifying M.A. (Police Administration) examination, after 8.2.2005, no local ranks were granted. Therefore, the petitioners cannot claim parity with those who were granted local rank under PPR. Further the Promissory Estoppel will also not apply, as when the petitioners were undertaking M.A. (Police Administration) examination in April 2005, they came to know that the policy has been changed w.e.f. 8.2.2005.

As a result of the foregoing discussion, we do not find any merit in writ petitions. Same are accordingly dismissed.

(A.B.Chaudhari)
Judge

12.07.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	Yes