

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

**CWP No. 16925 of 2012.**

Date of Decision: 28.11.2018.

Lakha Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

**CORAM : Hon'ble Mr. Justice Jitendra Chauhan**

Present : Mr. S.S. Brar, Advocate,  
for the petitioners.

Ms. Bhawna Gupta, DAG Punjab.

**JITENDRA CHAUHAN.J.**

The petitioners seek quashing of the order dated 08.07.2011 (Annexure P-9) passed by the respondent No.3 vide which the claim of the petitioners for deemed date of enlistment as Constable was rejected.

It is contended that the petitioners were enrolled as Special Police Officers. As per the rules on the subject, after serving as SPOs for six months, the petitioners were to be adjusted as Constables. Although, the petitioners were adjusted as Constables but the claim of the petitioners in the present civil writ petition is for their absorption as Constable from the date, they had completed six months as SPOs and for grant of pay scale and other consequential benefits from that date. Vide memorandum dated 19.11.1991, it was specified by respondent No.2 that there shall be no direct recruitment of Constables and

appointment should first be made as Special Police Officers. The minimum period for absorption as Constable was reduced from one year to six months and the absorption was to be carried out in accordance with the seniority and the suitability. It was further provided that even those special Police Officers who had not been appointed in accordance with recruitment standing order but had completed six months of service could be absorbed as Constables after giving relaxation provided their work and conduct had been assessed as satisfactory. The competent authority instead of considering the claim of the petitioners started appointing persons junior to the petitioners as Constables by pick and choose. Some of the Special Police Officers had approached this Court by way of CWP No. 7451 of 1996 which was decided on 12.12.1996. In pursuance to the directions issued in CWP No. 7451 of 1996, general instructions dated 08.07.1998 (Annexure P-6) were issued by the DGP specifying that deemed date had to be given to all the SPOs who had passed the test with effect from the date, the juniors were appointed as Constables. It is further contended that persons junior to the petitioners, whose particulars have been given in Annexure P-4 were promoted as Constables.

On the other hand, the stand of the respondents is that the petitioners were not found suitable for the post of Constable in the year 1997, therefore, they were not allotted constabulary numbers at that time. In reply to promotion of juniors, the stand taken by the

respondents in paragraph No.7 of the written statement is reproduced as under:-

*“That the claim of the petitioners in the present writ petition is also hopelessly badly time barred, because the petitioners were appointed as SPOs in the year 1992 and they were allotted constabulary number in the year 2001, 2002 and 2004. The petitioners cannot claim after 10 (ten) years that they may be granted deemed date from the date SPOs junior to them were allotted constabulary numbers on out of turn basis in their respective districts. The petition is bad on account of delay and laches, besides being time barred.”*

Heard.

It is to be noticed that the claim of the petitioners viz. for grant of constabulary number has been rejected only on the ground of delay and laches. The respondents have not denied the fact that persons mentioned in Annexure P-4 being junior to the petitioners were absorbed as Constable prior to the petitioners. This Court is of the opinion that a legitimate right cannot be defeated merely on the ground of delay. Otherwise also, the record reveals that the petitioners remained litigating for their right by way of filing CWP No. 7451 of 1996, contempt petition and Legal Notice dated 31.01.2011 (Annexure P-8) and thus, it cannot be said that the petitioners had been sleeping over their rights.

In view of the admitted position that the juniors to the petitioners have been promoted as Constables and the petitioners have not been given the same benefit despite being senior, the present civil writ petition is allowed. The respondents are directed to grant the

same date of enlistment as Constables to the petitioners from the date their juniors reflected in Annexure P-4 were enlisted. The necessary exercise be done within a period of two months from the date of receipt of copy of the judgment.

28.11.2018.  
SN

**(JITENDRA CHAUHAN)**  
**JUDGE**

**Whether speaking/reasoned :      Yes/No**  
**Whether reportable :                Yes/No**