

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH****Date of decision: 11.01.2018****CWP No.26732 of 2015**

Jai Pal &amp; others

...Petitioners

Vs.

State of Haryana &amp; others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Mr. R.K.Malik, Senior Advocate, with  
Mr. Mandeep Singh, Advocate, for the petitioners.

Ms. Shruti Jain Goyal, AAG, Haryana,  
for the respondents.

**RAJIV NARAIN RAINA, J. (ORAL)**

1. Having regard to the fact that the petitioners had earlier approached this Court in CWP No.26101 of 2013 titled 'ASI Jai Pal & others Vs. State of Haryana & others' at the stage when they were facing a show cause notice of reversion and they had not filed a reply. This Court entertained the petition; heard the State as well as Mr. R.K.Malik and passed an order that the Director General of Police, Haryana, would decide the matter and resolve on the validity of an order passed by the Inspector General of Police, Rohtak Range even when he had no jurisdiction since the petitioners belonged to the Karnal Range, which was separated from the Rohtak Range to be an independent Range on 29.09.2011. They had felt aggrieved in the litigation by the promotion of juniors to the rank of ASI w.e.f. 09.09.2011.

2. Aggrieved by the promotion of the alleged juniors, the petitioners had filed a representation to the Police Department for granting them promotion from the date juniors were promoted. Such representation was accepted and they were promoted w.e.f. 09.09.2011 vide order dated 25.10.2011. When the matter went up to the Director General of Police, Haryana, he directed the Inspector General of Police, Rohtak Range to revert the petitioners to their previous post, against which they had approached this Court by way of CWP No.26101 of 2013. This is the background of the case.

3. Be that as it may, this Court in the aforesaid writ petition vide order dated 20.07.2015 quashed the show cause notice(s) specifically and directed the Director General of Police, Haryana to take a fresh decision after considering the issue of seniority as well as the promotion of the petitioners without being influenced by the orders passed by the Inspector General of Police, Rohtak Range. The necessary exercise was ordered to be done after giving proper opportunity of hearing to the petitioners.

4. Thereupon, petitioners filed a joint representation to the proposed action of reversion. However, the Director General of Police, Haryana without issuing show cause notice(s) to the petitioners in writing, directly offered them personal hearing and has proceeded to pass the impugned order dated 11.12.2015 which gives rise to the present petition.

5. Mr. R.K.Malik, learned Senior Counsel, submits that this order does not satisfy the test of qualitative hearing. The requirement of issuance of show cause notice is to expose the mind of the competent authority to the employee of the action proposed to be taken against him to which the employee can appropriately react and say in his defence what he regards as

sufficient to decide in his favour. Thus viewed, he would have to call for and receive a reply to the show cause notice and it is only when this meaningful procedure is followed, only then an effective opportunity of hearing can be said to have been given. Mr. Malik cites the orders passed in CWP No.21790 of 2014 (O&M) titled 'Ramesh & others Vs. State of Haryana & others' decided on 14.02.2017 to contend that the impugned order passed by the Director General of Police, Haryana is non-speaking due to vacant personal hearing without recording the contentions and returning findings in accepting or declining relief.

6. Merely giving personal hearing to a person, who may not be aware of the niceties of the law (to borrow the words in Ramesh & others) or have not had the fair opportunity of seek legal opinion before making a reply to a show cause notice (had one been given) is offering lip service to the principle of *audi alteram partem*. The learned Single Judge observed that personal hearing cannot be substituted for a proper show cause notice to which reply may also be given.

7. There was a greater need and compulsion on the Director General of Police to have obeyed the directions of this Court in CWP No.26101 of 2013, which have been breached. The sum total of the reasoning given by the Director General of Police, Haryana, if we can call it so, is contained in Para.4 of the impugned order, which reads as follows:

“4. Where, in compliance of directions issued by the Hon'ble Punjab & Haryana High Court vide order dated 20.07.2015 in CWP No.26101 of 2013 filed by ASI Jai Pal & others Vs. State of Haryana & others, the petitioners were heard personally by the undersigned on 17.11.15. During the personal hearing they have stated that their seniority should be retained in Rohtak Range. They have been directed to

submit their representation in writing as well within a week. ASI Jaipal No.800/KNL and 14 others have submitted joint representation within the stipulated period. No new point was raised by the petitioners in their representation. The benefit of deemed date of promotion given to the petitioners by the IGP/Rohtak Range, Rohtak after the creation of Karnal Range is illegal and wrong. Hence, the orders passed by IGP/Rohtak Range, Rohtak vide No.20197-202/A-1 dated 25.10.11, 20561-64/A-1 dated 30.10.11 and 21990-95/A-1 dated 24.11.11 in respect of following petitioners including others having lien with Karnal Range are hereby set aside. The Inspector General of Police, Karnal Range, Karnal is hereby directed to refix the seniority of petitioners in Karnal Range as the lien of all these officials lies in Karnal Range, Karnal in accordance with lien fixation policy dated 12.11.12:”

8. These words can hardly be called reasons in support of the order. Thus, without expressing any opinion on the merits of the claim, the impugned order has to be set aside, as it is not sustainable in law, nor does it satisfy the directions contained in the orders of this Court.

9. Consequently, while disposing of this writ petition, a direction is issued to the Director General of Police, Haryana to pass a fresh order after issuing show cause notice(s) containing all the reasons why the petitioners are required to be reverted. He would go into the complex issues arising out of creation of Karnal Range after carving it out from Rohtak Range with all its consequences including paying attention to the dates of passing of Lower School Courses by the petitioners and the alleged juniors. It is only after completely understanding all the facts of the case, the Director General of Police should embark upon resolving the dispute in clear words on all aspects so that in case of challenge to the final order, this Court

may know what has weighed in the mind of the authority while taking the decision pro or contra on the objections to the show cause notice.

10. This Court does not intend to put pressure on the Director General of Police, Haryana by fixing a time limit in decision making on issues which require deeper consideration than accorded and, therefore, I would only direct that the Officer would complete the entire exercise from issuing show cause notice(s); granting an effective opportunity of hearing consistent with the principles of *audi alteram partem* and then to pass a well reasoned order, at least within four months from the date of receipt of certified copy of this order.

**11.01.2018**  
Vimal

**[RAJIV NARAIN RAINA]**  
**JUDGE**

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| <i>Whether speaking/reasoned:</i> | <i>Yes</i> |
| <i>Whether Reportable:</i>        | <i>No</i>  |