

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP No. 27143 of 2016(O&M)

Date of decision: 27.11.2018

Mahipal Singh Mann

.. Petitioner

vs.

Union of India and ors.

.. Respondents

Coram: Hon'ble Mr. Justice Rajiv Sharma  
Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Arjun Pratap Atma Ram, Advocate  
for the petitioner.

Mr. P.C. Goyal, Advocate  
for UOI-respondent No.1.

Mr. Nitin Rathee, Advocate for  
Mr. Anil Rathee, Advocate  
for respondent No.2.

Mr. Rajesh Bhardwaj, Senior Deputy Advocate General, Punjab

**Rajiv Sharma, J.**

The petitioner has sought judicial review of the order dated 17.10.2016 rendered by Central Administrative Tribunal, Chandigarh Bench, Chandigarh, passed in OA No. 1120/CH/2013.

The brief facts necessary for the disposal of the present petition are that the petitioner was appointed as Deputy Superintendent of Police vide appointment letter dated 28.02.1986. The services of the petitioner were dispensed with during the probation vide order dated 28.09.1987. The petitioner assailed the said order by filing CWP No. 4720 of 1988 in this Court, which was dismissed on 15.03.1991. Thereafter, the petitioner filed Letter Patent Appeal No. 23 of 1992, which was withdrawn on 29.01.1993.

The fact of the matter is that the petitioner was reinstated on 09.02.1993.

This case has chequered history. The Tribunal by way of interim order had also directed the Union Public Service Commission to convene Review Selection Committee, which was held on 06.06.2013.

The case of the petitioner was considered as per the Indian Police Service (Appointment by Promotion) Regulations, 1955 (in short, 'Regulations'). He was not found fit for promotion in the selection list 1994-95. The petitioner had earlier filed OA No.1331-CH-2012 challenging inaction of the respondents which was withdrawn on 26.07.2013.

Thereafter the petitioner filed OA No. 1120-CH-2013 seeking following relief:-

“(i) Quashing the impugned order dated 6.6.2013 (Anexure A-24);

(ii) directing the respondents to consider the claims of the applicant for promotion to Indian Police Service in terms of Indian Police Service (Recruitment) Rules, 1954 for the select list 1993-94;

(iii) directing the respondents to consider the claims of the applicant for promotion to Indian Police Service in terms of Indian Police Service (Recruitment) Rules, 1954;

(iv) directing the respondent Union Public Service Commission to appoint the applicant to the Indian Police Service by according to him the same year of allotment as his batch mates i.e. 1991, if necessary by directing compliance in terms of the order of the Hon'ble High Court on record as Annexure A-22 and A-23.

(v) directing the respondent UPSC to hold review selection committee meeting for the years following 1994-95 during which promotion to the Indian Police Service has been made from the State cadre.”

The learned Tribunal has dismissed the original application by holding that the claim of the petitioner for subsequent years was barred by constructive res judicata since the petitioner had not pursued OA No. 1331-CH-2012 to its logical end. Learned Tribunal in paragraph 12 has referred that the petitioner in fact has prayed that his case be considered from 1996-97 till 2006-07. We do not gather it from the pleadings of the parties. A fresh order was also passed after filing OA No. 1331-CH-2012 which the petitioner has assailed in OA No. 1120-CH-2013 dated 06.06.2013. The strict principles of Code of Civil Procedure do not apply to the petition filed under the Administrative Tribunal Act. The purpose of constituting the Central Administrative Tribunal under Article 233-A is for speedy justice to the employees.

The stand of respondents No.1 and 2 through out before learned Tribunal and before this Court has been that the records of the petitioner were required to be sent by the State of Punjab as per Para no.5 of the order. The case of respondent No.3 was that the petitioner has not earned regular ACRs for more than five years. However the crux of the matter is that as per the Regulations, it was incumbent upon respondent No.3 to send the records of the petitioner periodically for his induction/inclusion in the list. Respondent No. 3 could not presume that the petitioner was not eligible for induction/inclusion for IPS Cadre. The decision could be taken alone by the Union Public Service Commission.

Accordingly, the writ petition is allowed. The impugned order dated 17.10.2016 is set aside. Respondent No.3 is directed to send the case of the petitioner for induction/inclusion in the selection list of IPS Cadre for the year 1996-97 till 2006-07 within a period of three months.

Respondent No.2-Union Public Service Commission is also directed to do the needful within a period of six months from the date of receipt of record from respondent No.3.

( Rajiv Sharma )  
Judge

(Harinder Singh Sidhu)  
Judge

27.11.2018  
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Whether speaking/reasoned  
Whether Reportable:

Yes/No  
Yes/No