

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.W.P. No. 29550 of 2017 (O&M)

Date of Decision: 05.12.2018

Chandigarh Administration through its Home Secretary, UT Secretariat,
Chandigarh and ors.

.. Petitioners

vs.

The Central Administrative Tribunal , Chandigarh Bench and ors.

....Respondents

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

Present:- Mr. Sanjeev Sharma, Sr. Advocate with
Mr. Rakesh Sobti, Advocate
for the petitioners.

Mr. Anupam Gupta, Senior Advocate with
Mr. Sukhpal Singh, Advocate
for respondent Nos. 2 to 5.

Mr. Dheeraj Jain, Sr. Counsel Govt. of India
for respondent No.6.

Mr. Ishaan Bhardwaj, Advocate
for respondents No. 10 to 13.

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Rajiv Sharma, J.

The petitioners have laid challenge to the order dated 26.04.2017 rendered by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as 'the Tribunal') in OA No. 060/00697/2016.

The brief facts necessary for the adjudication of the petition are that respondents No. 2 to 5 herein were working as Inspectors in the Union Territory, Chandigarh. Their conditions, of service for promotion for the post of Deputy Superintendent of Police are governed under the Punjab

Police Services Rules, 1959 (herein after referred to as 'the Punjab Rules') as amended in the year 2010.

It is not in dispute that the next channel of promotion for the private respondents is Deputy Superintendent of Police. A decision was taken by the Central Government to send certain officers as Deputy Superintendent of Police in UT Chandigarh on deputation basis.

It is in these circumstances, respondents No. 2 to 5 filed the original application, which was disposed of on 26.04.2017. The operative portion of the impugned order reads as under:-

“32. Therefore, if the indicated peculiar facts and special circumstances and legal provisions are put together, then to our mind, the conclusion is inescapable and irresistible that the respondents have not derived any legal power from any constitution or statutory provision to transfer DANIPS officers on the post of DSPs in UT Chandigarh, vide impugned order, Annexure A-1 which has no legal force, is in-operative and cannot legally be implemented. Hence the contrary arguments of learned counsel for the respondents, *stricto sensu*, deserve to be and are hereby repelled. On the contrary, the ratio of law laid down by the Hon'ble Apex Court, in the indicated judgments, is *mutatis mutandis*, applicable to the instant controversy and is a complete answer to the problem in hand. In case such transfer orders, based on inoperative proceedings, are allowed to sustain, then it will inculcate and perpetuate grave injustice to the applicants and other similarly situated eligible Inspectors as they have already and would be deprived of their legitimate right and expectation of promotion to the posts of DSPs,

which is not legally permissible. Thus, the impugned order, Annexure A-1 and any such subsequent orders of transfers in so far as these relate to the Chandigarh, in this regard, deserve to be set aside, being illegal and inoperative.

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34. In the light of the indicated reasons, the instant OA is accepted. As consequences thereof; order dated 29.07.2016 (Annexure A-1) and any other subsequent transfer order relatable to the appointment of DANIPS officers to the post of DSPs in UT Chandigarh, are hereby set aside. At the same time, the respondents are also directed to consider the case of the applicants and other similarly situated persons for promotion to the next post of DSPs, if they are otherwise found eligible, as contemplated under PPRs, within a period of two months from the date of receipt of a certified copy of this order. However, the parties are left to bear their own costs.”

Now as a subsequent development after the order dated 26.04.2017, we have been told at bar that the respondent-Amrao Singh has been promoted and Dilsher Singh and Gurmukh Singh were considered by the duly constituted Selection Committee but they were not promoted for want of vacancies. Respondent No.5- Charanjit Singh stood promoted

Accordingly, the present petition is disposed of with a direction to the petitioners to promote the private respondents namely Dilsher Singh and Gurmukh Singh immediately on the availability of vacancies.

It is abundantly precautioned that the IPS Officer will be governed by the rules framed by the Centre.

(Rajiv Sharma)
Judge

05.12.2018
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(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No