

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

CWP No. 1782 of 2019 (O&M)

Date of Decision:06.02.2019

ORP-ASI/HC Dharam Chand and another

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. Lalit Rishi, Advocate
for the petitioners.

Ms. Palika Monga, D.A.G. Haryana.

RITU BAHRI, J. (Oral)

The petitioners have sought for issuance of a writ in the nature of certiorari quashing the action of the respondents in not deputing the petitioners for Intermediate School Course despite the fact that the persons junior to the petitioners have already been deputed for the same as also for issuance of a writ in the nature of mandamus directing the respondent No.3 to 5 to consider and send/depute the petitioners for Intermediate School Course (for promotion as ASI's) from Rohtak Range for which seats have been allotted vide circular dated 24.12.2018 (P-1) which course has commenced w.e.f. 01.01.2019.

The petitioners have filed application i.e. C.M. No.2037 of 2019 giving details of the persons who were stated to be junior and have been sent to Intermediate School Course.

A separate short reply has also been filed on behalf of respondent No.3 wherein it has been clarified that no junior Head Constable to the petitioners has been deputed for Intermediate School Course 2019 from Karnal Range. The last candidate sent for Intermediate School Course

2019 from Karnal Range is H.C. Parveen Kumar and his order of merit is 51/555 from batch No.52. It is further clarified that petitioners passed Lower School Course in batch No.54 in year 2012 and are junior to Head Constables deputed for the Intermediate School Course from Karnal Range, Karnal and their name for deputing them for the Intermediate School course can be considered as per their seniority at appropriate time.

The case of the petitioners do not fall under the guidelines laid down by the Full Bench of this Court in **Ram Chander and others** v. **State of Haryana and others**; 2015 (1) S.C.T. 520 and the said guidelines have been clarified by the Full Bench of this Court vide order dated 4.7.2014 as under:

“The said paragraph is ordered to be substituted with the following paragraph:

“It has been pointed out by the learned State counsel that the order of seniority of Constables in List-C is dependent upon the merit in Lower School Course and for their promotion to the post of Head Constable. The confirmation in List-C in the district depends upon availability of vacancies. The issue in the present case is that the deputation to intermediate school course is being done on the basis of date of the confirmation as Head Constable, whereas the promotion to the post of Head Constable and then confirmation as such in the District is carried out as per the number of vacancies available and the promptness of the Superintendent of Police in passing such orders. Thus, a Constable brought on List-C earlier in point of time, but promoted to the post of Head Constable and Confirmed as such later than his juniors in List-C due to factors beyond his control, would not be sent for intermediate course as per his seniority.”

Reference at this stage can be made to the Haryana Police

clause 5 laid down the procedure for making seniority of the constables after they pass Lower School Course which reads as under:

“12. Seniority of enrolled police officers.- (5) The seniority of all Lower School Course pass Constables shall be determined as per merit achieved by them in the Lower School Course; which shall then become the foundation for preparing the subsequent gradation lists and further promotions to higher ranks.”

A perusal of the above rule makes it abundantly clear that seniority of the constable has to be made as per the merit attained by them in Lower School Course. The above said rule read with the Full Bench judgment passed by this Court in Ram Chander's case (supra) does not leave any doubt that the seniority of the constables is to be maintained as per the merit obtained by them in Lower School Course while entering their names in List C-I.

Keeping in view the above facts and circumstances as also in view of the decision of the Full Bench of this Court rendered in Ram Chander's case (supra), this petition is dismissed. However, liberty is granted to the petitioners in case any junior to the petitioners has been sent to the Intermediate School Course, petitioners can make a representation to the concerned authority.

06.02.2019
rajeev

(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No