

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.23520 of 2018 (O&M)

Date of decision:21.08.2019

Surender Singh and others

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Arjun Sheoran, Advocate
for the petitioners.

Mr. D.S.Nalwa, Additional Advocate General, Haryana.

Mr. Kamal Deep Sehra, Advocate
for the applicant (in C.M.Nos.11656-57 of 2019).

AMIT RAWAL J. (Oral)

Petitioners have approached this Court seeking following relief:-

“Civil Writ Petition under Article 226/227 of the Constitution of India praying for issuance of a writ in the nature of certiorari directing the respondents to quash and withdraw the letter dated 15.02.2017 (Annexure P-3) and all subsequent proceedings of out of turn promotions until a non-arbitrary, rational and proper criteria may be adopted in view of memo no.2/8/2010-IIIGI dated 10.02.2011 and other relevant rules and appropriate orders;

AND

Issue a writ in the nature of mandamus directing the respondents to consider the petitioners and other eligible persons with the requisite seniority for the post of D.S.P as per the appropriate rules/order and criteria;

AND

It is also prayed that this Hon'ble Court may be pleased to issue any other appropriate writ, order or direction which this Hon'ble Court may deem fit and proper in the peculiar facts and circumstances of the case.

Interim relief

It is further prayed that during the pendency of the present petition, no out of turn promotions may be made by the respondents for exceptional bravery and courage.”

This Court while noticing the contention of learned counsel for the petitioners and material on record, vide order dated 14.09.2018 passed the following order:-

*Learned counsel for the petitioners has referred to the judgment passed by Hon'ble the Supreme Court in **S.I. Paras Kumar and others vs.S.I. Ram Charan and others**, 2004 (2) SCT 399, a perusal of which shows that adhoc promotion granted to the enrolled Police Officers below the rank of DSP was being granted under Rule 13.8 (2) of Punjab Police Rules under 10% quota. However, promotions above the post of*

Inspector i.e. DSP do not come under the ORP scheme and in order to avoid controversies, the State Government was to formulate appropriate rules/policies so as to streamline the promotion for appreciation. Learned counsel has further referred to the memo dated (Annexure P-8), whereby the Financial Commissioner & Principal Secretary to Government of Haryana had written to the Director General of Police to submit broad criteria for considering the claim of police personnel, who were recommended for out of turn promotions for exceptional courage and bravery displayed by them. Learned counsel states that since 2011, no criteria has been formulated and promotions are being granted above the post of Inspectors.

At this stage, Ms. Palika Monga, DAG, Haryana, seeks time to inform, as to why the policy has not been made and how out of turn promotions are being granted to the Gazetted Officers.

Adjourned to 19.09.2018.”

Mr. Arjun Sheoran, learned counsel appearing on behalf of the petitioners submits that grievance of the petitioner generated on issuance of the letter dated 15.02.2017 (Annexure P-3) whereby in the absence of rules, process of out of turn promotion was being initiated.

In pursuance to notice of motion order, written statement on behalf of respondents no.1 and 2, has been filed.

Mr. D.S.Nalwa, learned Additional Advocate General, Haryana submits that grievance of the petitioner no longer survives in view of the notification dated 20.12.2018 whereby in exercise of power under Article 309 of Constitution of India, Governor of Haryana has amended the Haryana Police Service Rules 2002 by inserting proviso in sub-rule (1) of Rule 6. He further submits that in pursuance to the aforementioned, process of out of turn promotion on account of prevailing rules and bravery/courage has been initiated, in accordance with law.

Faced with this situation, Mr.Kamal Deep Sehra, learned counsel for the applicant seeks leave of Court for withdrawal of civil miscellaneous application bearing No.11656 of 2019 seeking impleadment of the applicant as respondent no.4 in the writ petition.

Ordered accordingly.

This Court has also been informed that aforementioned notification has been challenged by the petitioners before the Hon'ble Division Bench vide CWP No.22018 of 2019 in which notice of motion has been issued for 16.12.2019.

As regards second prayer, learned State Counsel informs that occurrence of vacancy is not a right for grant of promotion, rather it is on the basis of merit and prevailing rules, in accordance with law.

In view of the stand of State, I am of the view that no cause of action survives in present writ petition having been rendered infructuous.

Disposed of with a direction to the respondents to initiate the steps for promotion in accordance with law.

August 21, 2019

savita

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	No