

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.6694 of 2016

Date of Decision:-03.04.2019

Savitri

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Shevantashu Goel, Advocate, for
Mr.J.K.Goel, Advocate, for the petitioner.

Mr.Kiran Pal Singh, AAG, Haryana.

RITU BAHRI, J. (ORAL)

Petitioner is seeking quashing of impugned order dated 16.03.2016 (Annexure P-8) and further direction to the respondent/authorities to grant seniority to the petitioner in her cadre from the date when the eligible candidates passed the lower school course in 59th batch and release all the arrears with all consequential benefits @ 18% per annum.

The short point for consideration in the present writ petition is that whether benefit under Punjab Police Rules 13.7 (1) and 13.7(2) of seniority can be denied to a constable who sent to lower school course from separate quota and as to whether petitioner who is constable can get benefit of seniority of B-1 Test Lower School Course (59th Batch) instead of 60th batch as she was also eligible in 35% quota share of Lady Constable in HPA as per rules.

Dharmbir Vs.State of Haryana and others 2009(1) RSJ 310 examined the case of constable who was appointed on 06.09.1988. He was an exemplary record in service and was decorated and awarded the highest honour by His Excellency the Governor of Haryana on 26.01.1996 and for exemplary courage. It is further submitted by the petitioner that because of his exceptional service career, his name was recommended for consideration of his case under 10% quota earmarked under Rule 13.7(3). He could not make the credit as he was found lower in merit in comparison to the other candidates, whose names were considered by the Central Departmental Promotion Committee. Thereafter, petitioner had appeared in the B-1 test under the 55% quota earmarked for bringing the name of the constable on list B-1 for which a competitive test was held. The petitioner although passed the written test of law but the merit of the petitioner in comparison to other selected candidates was lower and thus, he could not be selected under the 55% quota on the basis of merit as per Rule 13.7(2)(i) of the Punjab Police Rules. While examining the writ petition, the Division Bench after going through the Punjab Police Rules has observed that if the statutory rules provide for and confers on an employee right to consideration for promotion and further provides for a qualification, which the employee possesses as per the rules, that right of consideration cannot be curtailed so as to deprive him of his statutory right merely on issuance of executive instructions, which is contrary to the statutory Rules. The memo dated 11.10.2005 of Director General of Police, Haryana (Annexure R-2) cannot be sustained to the extent it states that all three categories cannot claim benefit of each other and that category-I (55% quota) cannot claim benefit category-II (35% quota) as the same is contrary to the statutory rules and is

thus quashed to this limited extent.

The Division Bench has allowed the the abovesaid matter with the observation that petitioner is held entitled to be considered under the quota of 35% fixed for consideration on seniority-cum-merit. Since his juniors i.e. respondents Nos.6 to 11 stand already deputed to the lower school course, respondents are directed to depute the petitioner to the first lower school course, which will commence after the pronouncement of the instant order. The petitioner shall be treated as having qualified the lower school course as if he had been deputed to the lower school course for which the instant writ petition was filed.

The ratio of the judgment squarely covered the facts of the present case. In the present case, the respondent authorities have admitted that petitioner was also eligible for B-1 test lower school course from her parent unit and was also entitled for lower school course against 2 seats allotted to HPA for female cadre in 35% quota. Thus, the petitioner is entitled for B-1 Test lower School course in 50% Batch on both counts. In the present case petitioner was appointed as Constable on 22.02.2007 and she has completed 5 years of service and she was senior most lady constable in her parent unit of Gurgaon and she was also eligible in 35% quota share of Lady Constable in Haryana Police Academy. The petitioner was eligible on both counts firstly she was eligible in 35% quota in HPA, secondly, she was senior most candidate in Constable in her parent unit i.e. Gurgaon Range, Gurgaon.

In view of the above, the present writ petition is allowed and order dated 16.03.2016 (Annexure P-8) is set aside. Petitioner is held

entitled for seniority in her cadre from the date when the eligible candidates

passed the lower school course in 59th batch with all consequential benefits.

(RITU BAHRI)
JUDGE

03.04.2019

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No