

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

**CWP No.263 of 2018 (O&M)
Date of Decision: 13.12.2019**

Jaspreet Kaur Petitioner
Versus

State of Punjab and others ... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr.Sudeep Mahajan, Advocate,
for the petitioner.

Mr.Mehardeep Singh, AAG, Punjab,
for respondents.

ARUN MONGA, J.(ORAL)

CM-16155 & 16157-CWP-2019

Applications are allowed as prayed for. Additional affidavit of the petitioner and Annexures A-1 and Annexure A-2 are taken on record.

CWP No.263 of 2018

Under purported *suo moto* exercise of revision of the merit list prepared pursuant to the selection process for recruitment to the posts of male and female constables as per Advertisement No.1/2016 published on 31.05.2016, the petitioner who had earlier been successfully selected and appointed as a Constable has been ousted from her job.

2. In the course of hearing this Court passed the following order 22.07.2019 which also succinctly sums up the case of the petitioner:

“Learned counsel for the petitioner submits that the petitioner was selected as a Constable in Punjab Police and was given appointment vide letter dated 19.11.2016 (Annexure P-6). Thereafter, she successfully served the respondents for more than a year and she was also awarded commendation certificate, as is reflected from Annexure P-8. But as a bolt from the blue, her services were dispensed with vide order dated 21.12.2017 (Annexure P-9) on the ground that owing to orders passed by this Court in a writ petition filed by certain

other candidates, the seniority had to be re-casted and as a result she was relegated to No.1 in the waiting list instead of being on the list of selected candidates, as per merit list. The petitioner was not a party in those writ proceedings before this Court.

In the circumstances, it seems rather harsh on the petitioner to be discharged from service after serving for more than a year. The case of the petitioner needs to be handled sympathetically depending upon the position of vacancies as on today.

Learned State counsel seeks sometime to take instructions qua the same.”

3. After the reconsideration of the petitioner's candidature fresh order date 21.08.2019 (Annexure A-1) has been passed wherein the stand taken is on the same lines as in original impugned order dated 21.12.2017 (Annexure P-9) stating that after carrying out the correction in the merit list the petitioner's name has been struck out from the service rolls and therefore she cannot be accommodated unless of course a vacancy becomes available as she has been slotted at Sr. No.1 of the waiting list.

4. In the return filed on behalf of the respondents similar stand has been taken as in the impugned order. Learned State counsel submits that the *suo moto* exercise of power to revise the merit list is contained in Clause 9 of the standing order No.1 of 2016 issued under Section 4(d) and 45(g) of the Punjab Police Act, 2007. It would be apposite to reproduce the same hereinbelow:

“9. Appellate Authority

The Director General of Police, Punjab shall be the Appellate Authority for any kind of redressal of grievance related to the Recruitment Process. Any candidate having a grievance should make a representation in writing, addressed to the Director General of Police, Punjab within 30 days of the declaration of the Result. Any representation received after the expiry of 30 days shall not be considered. The Director General of Police, Punjab may get the representation examined from the Chairperson of the Central Recruitment Board and take the final decision of the matter.”

A perusal of the above would reveal that the intent, letter and spirit of above clause is to mitigate the grievance of an individual who makes a

representation in writing within 30 of declaration of result. The same cannot by any stretch of imagination be constructed to mean that entire selection process can be re-visited and a revised merit list can be prepared under the garb of mitigation of grievance of a representation received by an aggrieved candidate.

5. I am unable to persuade myself to accept the vapid argument of the learned State counsel which is totally against the settled position of law that once the recruitment agency has concluded the entire selection process and merit list has been prepared thereafter and even the successful candidates have been appointed on their respective jobs, the appellate authority in ostensible exercise of clause 9 *ibid*, can reopen the entire selection process and that too by changing the criteria which was originally advertised.

6. In this context reference may also be had to the Clause 13(xvi) of the advertisement dated 31.05.2016 (Annexure P-3) which is reproduced herein below:

“(xvi) The candidate should take due care while filling up the Common Application Form. He/she is allowed to make changes in the CAF only till the time it is submitted. Once the Common Application Form has been submitted online, no changes whatsoever can be made thereafter. Therefore, the candidates are encouraged to fill the CAF carefully.”

7. The above position as advertised is in perfect consonance with the settled position of law. Therefore, under ostensible exercise of *suo moto* revision of merit list, candidates, who had once filled up their option in their particular categories could not have been allowed to change the same. Same has been done herein under the garb of representations leading to revision of the merit list. This Court would refrain from making any comments with regard to the entire merit list and confines the above observation only *qua* the result of the petitioner who has approached this Court and the same shall not be construed, in any manner, to once again change the merit list that has been

revised pursuant to the so call *suo moto* exercise of power.

8. In the premise, impugned order to the extent it changed the merit of the petitioner is set aside and the original merit of the petitioner is restored and respondents are directed that appropriate orders be passed by accommodating the petitioner in her category, subject of course, to vacancy being available as on today. In case no vacancy is available then the petitioner shall be accommodated on the next available vacancy in future, as and when it arises.

9. To balance the equities and also in the interest of justice it is made clear that the petitioner shall be placed in bottom of the merit list in her category and shall not be entitled to restoration to her original seniority prepared at the time of pre-revision of the seniority list.

Disposed of in above terms.

December 13, 2019

dharamvir

(Arun Monga)
Judge

Whether speaking/reasoned:
Whether Reportable :

Yes/No
Yes/No