

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201

CWP-18788-2017 (O&M)
Date of decision: 27.01.2020

Jagat Singh

.....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Neelesh Bhardwaj, Advocate for
Mr. Ajay Ghangas, Advocate
for the petitioner.

Ms. Safia Gupta, AAG, Haryana.

GIRISH AGNIHOTRI, J. (Oral)

1. The present writ petition has been filed by the petitioner-Jagat Singh *inter alia* with the prayer to quash the impugned order dated 08.09.2016 (Annexure P-6) qua the petitioner.

2. Though the case has chequered history, many more dates and details. However, counsel for the petitioner as of now, restrict it to some of the dates, for the prayer and relief prayed in the present writ petition. Bereft of the details, the case of the petitioner is that vide order dated 20.01.2014 (Annexure P-3), the petitioner's request was accepted and he was promoted as regular ASI w.e.f. 30.01.1990. For the ready reference, the said order is reproduced hereunder:-

“In view of the new policy framed by Govt. of Haryana vide office endst. No. 8/12/2012-6HGI dated 21.11.13 and further endorsed by the Director General of Police,

Haryana vide their office No.37122-30/E(III)-2 dated 18.12.13, the representation of SI Jagat Singh, 4/130 is hereby accepted on the basis of his outstanding performance in the field of Sports(.) Further he is promoted as regular ASI w.e.f. 30.01.90 i.e. the date on which he was promoted as adhoc ASI(.) Further, his date of promotion list 'E' and date of promotion to the rank of SI are revised as 02.10.97 and 02.10.97 respectively (.) He is also confirmed to the rank of SI w.e.f. 31.01.2001 and allotted HAP Range number HAP/33(.)

(Sudhir Chowdhary)
Inspector General
Haryana Armed Police,
Madhuban.

Endst No.963-64 /A1/13 dated Madhuban the 21-1-14

A copy is forwarded to following for information and necessary action:-

1. The Director General of Police, Haryana, Panchkula w.r.t. Their office memo No.37122-30/E(III)-2 dated 18.12.13 with the request to fix the seniority of above official in the rank of Inspector as SI Jagdish, 61/HAP, is immediate senior having date of promotion list 'F' w.e.f. 27.07.2001 & promotion to the rank of Inspector w.e.f. 15.10.2001 and SI Bijender Singh, HAP/30 is immediate junior to above official having date of promotion list 'F' w.e.f. 28.03.2003 & promotion to the rank of Inspector w.e.f. 31.03.2003. Ch. Roll of SI Jagat Singh, 4/130 is also enclosed herewith.

2. The Commandant, 5th Bn. HAP, Madhuban

(Sudhir Chowdhary)
Inspector General
Haryana Armed Police,
Madhuban”

3. After the said order, the petitioner was constrained to file **CWP-15461-2014** along with three others namely **Dharam Pal Singh and others vs. State of Haryana and others**. In that writ petition, as noticed in the order

dated 19.08.2014, the petitioners had approached *inter alia* with the prayer to direct the official respondents to promote them in view of the policy instructions dated 19.11.2013. It was the case of the petitioners that the persons junior to the petitioners have already been promoted by giving them the benefit of the policy instructions dated 19.11.2013. The said writ petition was disposed of on 19.08.2014 with the following directions:-

xxxx xxxx xxxx xxxx xxxx

“Counsel for the petitioners contends that the petitioners, at this stage, would be satisfied if a direction is issued to the Director General of Police, Haryana-respondent No.2 to take decision on the recommendations made by the Inspector General, Haryana Armed Police, Madhuban and Inspector General of Police, Rohtak Range, Rohtak within some specified time.

In the light of the statement made by the counsel for the petitioners, without going into the merits of the case or commenting thereon, the present writ petition is disposed of with a direction to the Director General of Police, Haryana-respondent No.2 to take decision on the recommendations made by the Inspector General, Haryana Armed Police, Madhuban and Inspector General of Police, Rohtak Range, Rohtak within period of two months from the date of receipt of certified copy of the order and convey the decision forthwith.”

4. It is also submitted by counsel for the petitioner that the petitioner was again constrained to file contempt petition i.e. ***COC-71-2015*** titled as ***Insp. Dharampal Singh and others vs. Sh. S.N. Vasisth, IPS, Director General of Police, Haryana***, which was disposed of by this Court on 07.11.2016. The present writ petition has been filed by challenging the

impugned order dated 08.09.2016 (Annexure P-6).

5. Learned counsel for the State has filed its reply dated 23.11.2017. Learned counsel for the State, by making reference to certain pleadings in the written statement, submits that there were many inconsistencies in the policy dated 19.11.2013. She further submits that the policy provides for entitlement of ad-hoc service benefits by regularization in the services of Head Constable, if the case falls under 10% category under Punjab Police Rules 13.8(2). She further submits that the said policy was later superseded by another policy dated 10.08.2016. She submits that still further, on 07.09.2016 (Annexure R-3), a clarification was also issued. She then submits that the said clarification is under challenge in CWP-15395-2016 and is pending consideration of this Court for 29.05.2020.

6. This Court deems it appropriate to dispose of the present writ petition with a direction to the Competent Authority as directed by this Court on 19.08.2014 i.e. Director General of Police, Madhuban take decision on the recommendations made by the Inspector General, Haryana Armed Police, Madhuban and Inspector General of Police, Rohtak Range, Rohtak. Perusal of the order dated 08.09.2016 (Annexure P-6) shows that the main grievance/demand of the petitioner has not at all been addressed to. It is the specific case of the petitioner that in fact, if the proper consideration is afforded, the petitioner would fall within the permissible 10% eligibility consideration under the policy(s).

7. Accordingly, the present writ petition is disposed of with a direction to Competent Authority that the Director General of Police who may further depute the concerned officer to examine the eligibility and

entitlement of the petitioner. It is directed that while the said consideration is undertaken, the various pleas and documents referred to, specially Annexure P-3 which is promotion order dated 20.01.2014, be also considered. The petitioner is at liberty to submit the detailed synopsis/representation clearly submitting the claim.

8. The positive case of the petitioner is that had the competent authority examined the case of the petitioner keeping in view the fact that he was given ad-hoc promotion as ASI on the basis of special excellence in sports vide order dated 30.01.1990, the consequential relief would have been granted to the petitioner. This issue be specially gone into by the Competent Authority and therefore *de hors* the order dated 08.09.2016 (Annexure P-6) fresh order be passed within eight weeks from the date of receipt of certified copy of this order. It is further directed that in the event, the Competent Authority finds the petitioner is entitled, consequential benefits be also released within one month of the said order.

9. Learned counsel for the petitioner at this stage submits that on 30.08.2017, this Court had granted directions to the authorities to maintain *status quo* and therefore prays that the said interim directions may continue. It is directed that the interim directions granted by this Court shall continue till the expiry of ten days from the date of any adverse order passed by the Competent Authority.

(GIRISH AGNIHOTRI)
JUDGE

27.01.2020
anju rani

Whether speaking/ reasoned:
Whether Reportable:

Yes/No
Yes/No