

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

**CWP No. 9271 of 2017 (O&M)
Date of Decision:07.02.2020**

Head Constable Malkiat Ram

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. K.S. Sidhu, Advocate for the petitioner.

Mr. T.P.S. Chawla, DAG, Punjab.

TEJINDER SINGH DHINDSA J.(Oral)

Petitioner seeks a mandamus for directing the official respondents to promote him as officiating ASI w.e.f. the deemed date i.e. 01.06.2015 at par with his batchmates/juniors alongwith all consequential benefits in the nature of seniority and arrears of pay etc.

Counsel for the parties have been heard.

The uncontroverted factual premise that emerges from the written statement itself filed on behalf of respondents No.1 to 4 is that the petitioner was initially enlisted as temporary Constable on 24.10.1992. He was promoted to the rank of officiating Head Constable on adhoc basis on 30.06.2005. Petitioner was then sent to the Punjab Police Academy, Phillaur to undergo Inter Mediate School Course which commenced w.e.f. 15.11.2014. However, he was called back midway on the basis that his name did not exist in either list C1 or C2. Petitioner submitted a representation against such action and since there was no response forthcoming, he filed CWP No.24061 of 2015 for quashing of the order

whereby he had been recalled from the Inter Mediate School Course. The aforenoticed writ petition was disposed of on 17.11.2015 with a direction to decide the representation within a time frame of two months. In purported compliance of the orders passed by this Court the promotion orders of the petitioner were rectified and his promotion was then treated as Officiating Head Constable w.e.f. 30.06.2005 instead of Officiating Head Constable on adhoc basis. As a direct consequence petitioner underwent the remaining part of the Inter Mediate School Course and which was completed on 06.06.2016. A Departmental Promotion Committee was then constituted for purposes of consideration of the case of the petitioner for promotion to the rank of Officiating ASI. A clear recommendation was made that the name of the petitioner be entered in List D-1 w.e.f. 01.04.2015 i.e. when other similarly situated colleagues had passed Inter Mediate School Course and that he be promoted as regular ASI w.e.f. 01.06.2015 on the ground of parity.

An additional affidavit dated 29.07.2019 of the Deputy Superintendent of Police, PRTC, Jahan Khelan, District Hoshiarpur has been placed on record and the contents of such affidavit would disclose that the petitioner has since been granted substantive promotion in the rank of Officiating ASI w.e.f. 10.07.2018.

During the course of hearing arguments the only justification being put forth on behalf of the respondents in not granting to the petitioner the benefit of deemed promotion as Officiating ASI w.e.f. 01.06.2015 is that such benefit if given may lead to further litigation.

The stand taken on behalf of the respondent authorities is wholly misconceived.

The issue herein would be as to whether the petitioner has a right in law to be considered for grant of deemed substantive promotion w.e.f. 01.06.2015 instead of 10.07.2018. The State in its reply has virtually conceded that the petitioner is entitled for his name to be entered in List D-1 w.e.f. 01.04.2015 and to be promoted as Regular ASI w.e.f. 01.06.2015 and at par with similarly situated employees/counterparts. Even a recommendation to such effect has been made by the duly constituted Departmental Promotional Committee. Such benefit cannot possibly be denied to the petitioner only on the plea that certain other employees may also approach this Court.

In view of the conceded position, as contained in para No.1 of the preliminary submissions contained in the written statement, writ petition is allowed.

Directions are issued for issuance of orders granting to the petitioner the benefit of deemed promotion as regular ASI w.e.f. 01.06.2015 with all consequential benefits.

Petition is allowed.

Pending application(s), if any, stands disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

February 07, 2020

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No