

228.

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

CWP-15366-2021

Date of Decision: 31.08.2022

RAVINDER

.... Petitioner

Versus

STATE OF HARYANA AND ORS.

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vishal Nehra, Advocate,
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana

JAISHREE THAKUR.J

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India seeking a writ in the nature of mandamus directing the respondents to depute the petitioner to Lower School Course 2019 by giving him seniority of Batch No.65 of the year 2017.

2. In brief the facts as pleaded, are that the petitioner was appointed as Constable in Haryana Police in 2011. Upon finding place in merit list of B-1 test, he was deputed to undergo the Lower School Course 2017 for batch No.65. He was directed to undergo his medical check-up, whereupon it was found that he had two lumps in his neck. Vide letter dated 12.03.2018, he submitted a request for exemption from the said course, as he was not medically fit and would like to undergo his treatment before he is sent to the Lower School Course. His application was considered and respondent No.2, DGP, vide order dated 16.04.2018, directed that the case of

the petitioner for exemption and permission to allow him to complete the said course in the next batch, be decided at the range level as per rules and instructions. However, on medical grounds, the petitioner could not complete the Lower School Course of 2017 along with his batchmates (batch No.65). For the Lower School Course of 2019, 1265 seats were allocated. The petitioner, vide representation dated 10.01.2021, prayed that now he is medically fit and he be allowed to participate in Lower School Course 2019, however, he be granted the seniority of Lower School Course 2017. The Inspector General of Police, Rohtak Range, Rohtak, respondent No.3, accepted the application of the petitioner for exemption and allowed him to participate in the batch of Lower School Course 2019, but his name was removed from the selection list of Lower School Course 2017 against 55% quota seats of District Sonipat. It was directed that the petitioner can participate in the current batch i.e. Lower School Course 2019, if he is eligible. Aggrieved against the said action of the respondents, the instant writ petition has been filed.

3. The sole grouse of the petitioner herein is that his name had been recommended to undergo the Lower School Course 2017 and he had been directed to undergo his medical fitness. It is only on account of two lumps in his neck, he sought exemption for the Lower School Course 2017. However, on being medically fit, he requested to send him in Lower School Course 2019 and his seniority be retained for the batch of 2017. Though his request for exemption was accepted, but his name was struck off from the list of Constables to be deputed in the year 2017 and has been recommended to undergo the Lower School Course for the year 2019. His claim is for

seniority to be maintained in batch No.65, as he had been deputed to undergo training then.

4. Reply has been filed wherein a categorical stand has been taken that the petitioner is estopped by his own act and conduct from filing the instant writ petition as he himself chose not to attend the Lower School Course 2017, when his name was recommended. It is submitted that there is no provision to reserve a seat for a candidate for a particular Lower School Course and in case the candidate is unable to attend the said course, no benefit can be given to him. It is only on completing and passing the said course, he would be entitled to further promotion. It is also submitted that the petitioner already appeared under 62% quota of Lower School Entrance Test (B-1 Test) for 2019 held on 17.07.2021 and has not qualified the test as he obtained only 65 marks out of 140 whereas minimum qualified marks were 70. Therefore, as on date, his name is not in the B-1 list for the year 2019 and consequently, he could not be sent. Reliance has been placed upon a judgment rendered in ***Om Parkash Shukla Versus Akhilesh Kumar Shukla and others, AIR 1986 SC 1043*** where in similar circumstances, the petitioner therein appeared in the test without protest and filed the writ petition only when he realized that he would not succeed in the examination, the Supreme Court held that no benefit can be given to such a candidate.

5. I have heard learned counsel for the parties and with their assistance, I have gone through the pleadings of the case.

6. Admittedly, petitioner's name was in the merit list of B-1 test to be sent to undertake Lower School Course 2017, but on account of his being

medically unfit, he sought exemption and prayed to go in the next session to be held. Though his request for exemption from the Lower School Course 2017 was accepted, but his name was removed from the selection list of Lower School Course 2017 against 55% quota seat of District Sonipat.

7. Rule 13.7 of the Punjab Police Rules, 1934 as applicable to the State of Haryana, provides for a procedure for selection of Constables for promotion to the Lower School Courses. Rule 13.7(1) stipulates that selection to list B shall be made annually for the entire State and shall be limited to the number of seats determined for the General and different reserve categories for the year, meaning thereby, the list B is to be prepared annually. There is no provision for carrying forward the names of candidates who had been entered in list B for a particular year to next year. The petitioner herein undertook B-1 test in the year 2019 but failed and it is only thereafter that the instant writ petition has been filed seeking the benefit of being in B-1 list for the year 2017, which cannot be permitted as there is no provision under the rules for doing so. The judgement as rendered in ***Om Parkash Shukla's case (supra)*** is fully applicable to the facts of the instant case.

8. Consequently, the writ petition, being devoid of any merit, stands dismissed.

(JAISHREE THAKUR)
JUDGE

31.08.2022

sanjeev	Whether speaking/reasoned:	Yes/No
	Whether Reportable:	Yes/No