

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CWP No.16315 of 2022 (O&M)

Date of Decision.23.08.2022

Robin Singh and another

...Petitioners

Vs

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rajat Mor, Advocate
for the petitioners.

Ms. Upasana Dhawan, AAG, Haryana.

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JAISHREE THAKUR J. (ORAL)

The instant writ petition has been filed by the petitioners challenging the action of the respondents whereby they had directed both the petitioners to undergo training for the post of Male Constable (GD).

Learned counsel appearing on behalf of the petitioners herein would contend that both the petitioners had applied for the post of Male Constable (GD) pursuant to advertisement that was issued in 2018. At the same time, petitioners also applied to the post of Male Constable (General Duty) in the Indian Reserve Battalions of Haryana State under Category No.3. The petitioners were appointed under Category No.3 but were not considered for appointment to the post of Male Constable (General Duty) under Category No.1 on account of the fact that the petitioners did not fall into the merit list as prepared by the respondent-Commission. Since the petitioners had not been given the requisite marks under the socio-economic category as well as for having higher qualification, they approached this Court by filing CWP Nos.5860 of 2020 and 16554 of 2020 seeking additional marks, which writ petitions came to be disposed of by this Court

by giving direction to the respondent-Commission to consider cases of the petitioners and pass a speaking order thereto. The relevant portion of the order was to the effect that if on consideration the petitioners are found to be entitled to additional marks then the Commission should recommend the case of the petitioners for appointment to the concerned post. The case of both petitioners was reconsidered and after allowing additional marks, the Commission recommended case of the petitioners for appointment as Male Constable (GD) in Category No.1.

The case of the petitioners as set out is that during the period they were appointed and serving as Constables in the Indian Reserve Battalion, they underwent a Basic Training Course in Batch No.86 and completed the same successfully. After they came to be appointed as Constables in the Haryana Armed Police by virtue of orders passed by this Court in writ petitions, they have now been sent for the Basic Training Course-I again. It is submitted that having undergone the Basic Training Course-I, which is not only similar but identical to the course undertaken, while they were serving as Constables in the Indian Reserve Battalion, it would tantamount to repetition and therefore, it is prayed that petitioners may be exempted from undertaking the 9 months course which in reality they have already undergone.

Pursuant to notice of motion order, reply has been filed on behalf of the respondent-State. On perusal of the reply, this Court vide order dated 18.08.2022 sought details to be furnished as to how the Basic Training Course-I as already undertaken by the petitioners on being appointed as Constables in IRB is different from the Basic Training Course-I to which they have been sent on being appointed as Male Constable

(General Duty).

Pursuant to order dated 18.08.2022, Mr. Sukhjinder Singh, DDA, O/o Commandant 3rd HAP Battalion and Mr. Kamal Sharma, Assistant, O/o DGP, Haryana have put in appearance and have apprised the Court that Batch No.86 of which petitioners were part of, comprised of Constables from IRB, Constable (General Duty) Male & Female. Very fairly, it has been stated that there is no difference in the Course that was undertaken by this particular batch i.e. Basic Training Course-I. The length and duration as well as the syllabus of the Course was identical in respect of Constables sent from IRB and those, who undertook the said course from Constables (GD) Male and Female.

A perusal of the reply reflects that reason for rejecting representation filed by the petitioners seeking exemption from undertaking the Basic Training Course-I while being in the cadre of Male Constable (General Duty) is that duties assigned to personnel belonging to IRB and Armed Police Cadre is different. Learned counsel for the respondent-State would submit that the Headquarters are different and Rule 19.2 of the Punjab Police Rules, 1934 as applicable to the Haryana provides that recruits shall not be passed into the ranks until they have undergone six months (herein called now 9 months) training and instruction. Moreover, the Haryana Police Act, 2007 also provides that no police officer shall be deployed on duty without undergoing and passing any Basic Training Course, as may be prescribed. Further, it is stated that no police officer shall be promoted to any higher rank without undergoing and passing of the Basic Training Course. She would also rely upon Rule 13.7 (7) (a) of the Punjab Police Rules, 1934 amended vide notification dated 7.8.2017 which

provides for determination of *inter se* merit of Constables for admission to List B and the fact that *inter se* seniority of Constables is to be maintained from those recruits, who have been brought on List B first. It is also submitted that there is no provision of exemption in existing Rules/Instructions in these particular cases.

I have heard learned counsel for the parties and have also perused pleadings of the case. The facts are not in dispute. Petitioners came to be appointed in Indian Reserve Battalion, Haryana pursuant to a selection process. They were not given the benefit of additional marks at the appropriate time, which would have brought them within the zone of consideration for appointment as Male Constable (General Duty) under Category No.1. It is only when they approached this Court, a direction was given to the Commission to look into their case and if found entitled to additional marks, appointment letters be issued to them. It is also admitted fact that during the time they were serving in the Indian Reserve Battalion, Haryana, they underwent Basic Training Course-1 i.e. Batch No.86 along with persons, who had been recruited in the same advertisement as Constables (General Duty) Male & Female.

The short question that arises would be whether the petitioners, who have already undertaken the Basic Training Course-1 while serving as Constables in the IRB, are required to undergo the Basic Training Course-I afresh on having been transposed as Constables (General Duty) under Category No.1. The answer of the question would be in negative, taking into consideration the fact that they have undergone the Basic Training Course-I in Batch No.86 along with Constables (General Duty) Male & Female, which course was common to all. On the asking of the Court,

officials from the respondent-Department/Commission present in Court very fairly stated that Batch No.86 underwent a common course for which duration and syllabus was same.

Learned counsel appearing on behalf of the respondent-State would vehemently argue that nature of duties is separate but that argument is noted to be rejected for the simple reason that training that has been imparted to both Constables in the IRB and Constables (General Duty) Male & Female is identical. The question of nature of duties only arise subsequent when their further training would take place. The contention that had been raised that Rule 19.2 of the Punjab Police Rules provides that recruits would not be passed in the ranks until they have undergone their training period or that Rule 13.7, sub-rule (7)(a) of Punjab Police Rules provides for *inter se* determination of the Constables for admission to List 'B' would again not be of any relevance, keeping in mind that this Court is of the opinion that once a Constable though appointed with IRB has already undergone a common training programme, which is called Basic Training Course-I, should be exempted from undertaking the said training course again, since no useful purpose would be served in sending the petitioners to undergo 9 months course. This opinion is also being formed taking into account the fact that petitioners herein would not learn anything new. Even the argument raised that there is no provision for exemption in existing Rules in such type of cases, is not a ground enough to direct the petitioners to undergo the training course, which they have already undergone. Further, it is also relevant to note that considerable expenses is incurred while sending recruits for training courses, which is borne out of the State exchequer, which in turn is funded by the honest tax payers.

Consequently, the instant petition stands allowed and the petitioners are exempted to undergo the Basic Training Course-I on being appointed as Male Constable (GD). However, while allowing the writ petition, it is made clear that this order is being passed keeping in view the peculiar facts and circumstances of the case where the petitioners are directed to undergo the Basic Training Course-I, which they have already undertaken in Batch No.86 along with Constables (General Duty) Male & Female and shall not be treated as a precedent.

With regard to the rest of the prayers, the petitioners herein are at liberty to submit representation to the respondents, which shall be considered by the competent authority within a period of two months from the date of receipt of certified copy of this order by passing a speaking order, which shall be communicated to the petitioners forthwith.

(JAISHREE THAKUR)
JUDGE

August 23, 2022

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No