

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

**CWP No.23238 of 2014
Reserved on: July 08, 2022
Pronounced on: July 22, 2022**

CHANAN SINGH AND OTHERS

...Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Manu K. Bhandari, Advocate
for the petitioners.

Mr. Pawan Sharda, Sr. DAG, Punjab.

JAISHREE THAKUR, J.

1. The petitioners herein are seeking issuance of an appropriate writ to quash the recommendations given by the Officers' Committee vide Annexure P-18, by which the petitioners have been ordered to be reverted from the post of Head Constable to that of Constable, pursuant to which the names of the petitioners have been ordered to be removed from List C-1, which is the promotion list for the post of Head Constable.

2. For correct adjudication of the instant writ petition, a few facts need to be noted.

- The petitioners herein were initially appointed as Constables between the years 1992 to 1994 through proper channel. The petitioners submitted a representation for being deputed to the Lower School Course as their counter parts were being sent for

the Lower School Course. The case of the petitioners was strongly recommended by respondent No.3-the Senior Superintendent of Police, Ferozepur, who recommended that four additional seats for the Lower School Course be created keeping in mind that the employees had completed nearly 16-17 years of service and had already passed their B-1 written test held on 10.07.2010. On receipt of the said letter, the Director General of Police, Punjab created four additional seats for Ferozepur for the Lower School Course at Punjab Police Academy (PPA), Phillaur. While allowing the additional four seats, the Director General of Police, Punjab, directed that eligible officials on B-1 list in Ferozepur District may be deputed under proper authority for the said Course. On creation of four additional seats, the petitioners herein were allowed to be deputed to the Lower School Course against the said additional seats. After the petitioners had joined, an issue was raised as to how they could be sent to undergo the Lower School Course when the Course had already commenced prior thereto. On that account, the petitioners herein were sent back to their parent District due to late joining of the said Course.

- Aggrieved against not being allowed to complete the Lower School Course, the petitioners filed *CWP No.19892 of 2010*, contending that the orders of returning them to their parent District had been passed without giving notice to the petitioners and the order was harsh as the petitioners have already undergone the training for over a month. The said

petition was eventually disposed of on 09.11.2010 with a direction to the Director General of Police, Training Branch, Punjab at Chandigarh, to allow the petitioners to join the Lower School Course in Punjab Police Academy (PPA), Phillaur when the next Course is initiated. As the petitioners herein were not being sent to the Lower School Course, which commenced in the next year, the petitioners filed **COCN No.219 of 2011**, titled as **“Jagjit Singh and Others versus A. R. Talwar and Others”**.

In response to the contempt petition, an affidavit dated 17.03.2011 (Annexure P-7) was filed by the respondents stating that the petitioners would be deputed in the next Lower School Course, which was to commence from 01.04.2011. The contempt petition was disposed of on 18.03.2011 and the petitioners were thereafter, sent to Lower School Course with effect from 01.04.2011, which Course was completed successfully by the petitioners herein. Thereafter, the petitioners were brought on to the C-1 List and ordered to be promoted as Head Constables vide order dated 20.12.2011.

- In the meantime, other Constables belonging to different Districts approached this Court by way of filing a writ petition bearing **CWP No.6259 of 2011**, titled as **“Sanjeev Kumar and Others versus State of Punjab and Others”**, with a prayer that additional seats be also created for the candidates for Ferozepur and Patiala Districts by citing the example of the petitioners herein. The said writ petition was referred to the Officers’ Committee. The Officers’ Committee while looking into the

claim of the petitioners in *CWP No.6259 of 2011*, rejected the claim and declined to consider their case on parity with four additional seats allotted to Ferozepur District, by virtue of which the petitioners herein were allowed to attend the Lower School Course. While rejecting the claim of the petitioners in *CWP No.6259 of 2011*, the Officers' Committee went on to hold that "*the four candidates from Ferozepur namely Constable Jagjit Singh No.555/FZR (ii) Constable Gurdip Singh (iii) Head Constable (P) Raman Kumar No.1072/FZR and (iv) Chanan Singh No.1008/FZR, who were not even on the waiting list was deputed for the Lower School Course may not be brought on promotion list C-1. In case, they have already been brought on C-1 and/or further promoted to the rank of Head Constable, the said orders may also be withdrawn.*"

- The order of the Officers' Committee is dated 15.05.2012. On the recommendations made by the Officers' Committee, show cause notice was issued to the petitioners, which was duly replied to, which proceedings were again challenged before this Court in *CWP No.14513 of 2012*, titled as *"Jagjit Singh and Others versus State of Punjab and Others"*, primarily on the ground that the petitioners had remained unheard by the Officers' Committee in proceedings which had commenced on a writ petition filed by *Sanjeev Kumar and Others* bearing *CWP No.6259 of 2011*. The recommendations of the Officers' Committee directing reversion of the petitioners was set aside

by this Court on 07.03.2014, giving the petitioners an opportunity to be heard by the Officers' Committee afresh. The petitioners were heard by the Officers' Committee and the Officers' Committee came to the conclusion that the petitioners could not be promoted as Head Constables on the basis of four additional seats allotted by the Director General of Police, Punjab, and, therefore, they were rightly issued show cause notice for reversion from the rank of Head Constable to Constable. The basis of upholding the reversion order was that the competent authority could not have taken the decision to depute the petitioners for Lower School Course against four additional seats as the decision is contrary to provisions of Rule 13.7(2)(c) of the Punjab Police Rules, 1934 and noticing that the earlier Committee had held that the petitioners were not on the waiting list. Aggrieved against the decision, the instant writ petition has been filed.

3. Mr. Manu K. Bhandari, learned counsel appearing on behalf of the petitioners herein assails the decision of the Officers' Committee by contending that no fault can be attributed to the petitioners herein as they were deputed to attend the Lower School Course by the respondents themselves, which course was completed successfully by the petitioners with good marks. It is argued that the very premise for holding that the petitioners had been deputed without being on the waiting list is fallacious considering the fact that an affidavit dated 17.03.2011 (Annexure P-7) had been filed in the contempt petition stating that the petitioners, who were next in the waiting list would be sent to attend the Lower School Course when the next Course commences. It is further argued

that as on date, there is no challenge to the orders of the Director General of Police, Punjab creating four additional seats, which seats had been created on the recommendations of the Senior Superintendent of Police, Ferozepur and once the petitioners herein had completed the Lower School Course, they would be entitled to the necessary promotions which ensued.

4. Per contra, learned counsel appearing on behalf of the State of Punjab would rely upon the report of the Officers' Committee, whereby there is a decision taken that the petitioners could not have been sent for the Lower School Course as their names were not even reflected on the waiting list and sending them to the Lower School Course was *de hors* of Rule 13.7(2)(c) of the Punjab Police Rules, 1934.

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

6. Based on recommendation made by the Senior Superintendent of Police, Ferozepur, four additional seats were created by the Director General of Police, Punjab, who is a competent authority. On the said creation of four additional seats, the petitioners herein were deputed to attend the Lower School Course, which had effectively commenced from 15.07.2010 and, therefore, on account of late joining, they were ordered to return to their parent District. As per affidavit dated 17.03.2011 (Annexure P-7) given by the respondents in the contempt proceedings, the petitioners were to be permitted to join the next Lower School Course. The said affidavit would reflect that the names of the petitioners were on the waiting list and were next in line to be deputed to the Lower School Course against their categories.

7. It is also an admitted position that the petitioners herein have been permitted to undertake the Lower School Course by the respondent-department

itself on the creation of four additional seats. When there was a recommendation made for creating the said additional seats by the Senior Superintendent of Police, Ferozepur, the petitioners herein were named in the said letter requesting for four additional seats for Lower School Course to be allotted. The petitioners have also been permitted to work against the posts against which they have been promoted, without any issue being raised by the respondents-State itself. It is only in the ancillary proceedings which came to be initiated in *Sanjeev Kumar's case (supra)* that the matter was looked into by the Officers' Committee. A reading of the report of the Officers' Committee itself notices that the Director General of Police, Punjab, is competent to create additional seats as has been done in the present case. However, the Officer's Committee erroneously came to the conclusion that the petitioners were not eligible to be deputed to the Lower School Course as they were not on the waiting list. The reasoning given that the petitioners herein were not on the waiting list is belied by their own affidavit dated 17.03.2011 (Annexure P-7) given in the High Court in the contempt proceedings and, therefore, the reasoning is wholly unsustainable.

8. The Officers' Committee has recommended that the petitioners could not be promoted as Head Constables in view of Rule 13.7(2)(c) of the Punjab Police Rules, 1934 as applicable to Punjab. Rule 13.7(2)(c) of the Punjab Police Rules, 1934 stipulates that if a Constable is not deputed to the Lower School Course in that year, he has to appear in B-1 test afresh in the next year. A constable cannot claim any benefit of waiting list of previous year for this purpose. There is also no discussion as to how Rule 13.7(2)(c) of the Punjab Police Rules, 1934, would be applicable in the case of the petitioners herein, considering the fact that the petitioners herein having already

undertaken the B-1 test on 10.07.2010, were deputed to attend the Lower School Course by the order of the Senior Superintendent of Police, Ferozepur himself on 04.10.2010, immediately on 4 additional seats being allotted to Ferozepur district. After completion of one month's training, the petitioners were sent back to their parent District only on the ground that the said course had already commenced and they would not be able to complete the mandatory training period of six months. There is also a direction of this Court in *CWP No. 19892 of 2010* dated 09.11.2010 to send the petitioners for the Lower School Course when the next Course is initiated, which orders were given effect to. The relevant order passed in the writ petition is reproduced as under:

“The writ petition stands disposed of, however, with directions to Director General of Police, Training Branch, Punjab at Chandigarh to allow the petitioners to join lower school course in Punjab Police Academy Phillaur when the next course is initiated.”

9. If the petitioners herein had been permitted by the respondents themselves to undergo the Lower School Course, the action of the respondents in reverting them back to their previous rank is wholly unsustainable. Other than the recommendations of the Officers' Committee to the effect that the petitioners herein could not have been promoted to the post of Head Constable, no one has challenged their promotion stating that they have been superseded. It would also be worthwhile to take note of the fact that the petitioners have been given seniority in accordance with completion of the Course in 2011 along with their course-mates.

10. The petitioners would have also had a legitimate expectation to be allowed to retain their rank as Head Constables having successfully completed the Lower School Course and that too after being deputed to the same under

orders of the High Court. In the case of **R v Inland Revenue Commissioners, Ex-Parte M.F.K. Underwriters Agents Ltd., (1990) 1 W.L.R 1545**, it has been expressed that *“if a public authority so conducts itself as to create a legitimate expectation that a certain course will be followed, it would often be unfair if the authority were permitted to follow a different course to the detriment of one who entertained the expectation, particularly if he acted upon it. The doctrine of legitimate expectation is rooted in fairness.”* It is well settled that the doctrine of legitimate expectation is rooted in fairness in Government dealings. Once the respondents permitted the petitioners to undergo the Lower School Course without a murmur, they cannot be permitted to backtrack at this stage.

11. Therefore, in the facts of the present case, this Court has no hesitation in setting aside the impugned order Annexure P-18 ordering the reversion of the petitioners herein.

12. Consequently, the instant writ petition is allowed. The order Annexure P-18 passed by the Officers' Committee, respondent No.5 is set aside.

July 22, 2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No