

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

CWP No.3890 of 2017 (O&M)
Date of Decision: April 2, 2022

Surinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. G.P.S. Bal, Advocate
for the petitioner.

Mr. Sehaj Bir Singh, DAG Punjab.

JAISHREE THAKUR, J.

1. The instant writ petition has been filed for the issuance of a writ in the nature of *certiorari* for quashing the order dated 12.11.2016 passed by respondent No.2 whereby, the claim of the petitioner made through the representation dated 10.12.2012 has been rejected illegally, arbitrarily and unconstitutionally.

2. In brief, the facts of the case are that the petitioner herein was appointed as a Constable on 01.09.2002. For making regular promotion to the next higher post of Head Constable, the constable/drivers have to pass B-1 test at District level whereby, the intelligence and aptitude of the aspiring candidate is adjudged from various parameters. After passing the B-1 test, the candidates are sent for training course at Punjab Police

Academy, Phillaur on the basis of available vacancies for promotion as Head Constable and on successful completion of the training course at Phillaur, the candidates are granted promoted as regular Head Constables. The petitioner appeared in the test B-1 conducted by the respondents in the month of February, 2009 and the petitioner along with certain other candidates was placed on the waiting list. Since the year 2010, B-1 test was not conducted and the petitioner being on the waiting list was waiting for his turn to be allocated for the training course and even the case of the petitioner was recommended by the then Senior Superintendent of Police, Ropar. It is alleged that in order to frustrate the claim of the petitioner and other similarly situated persons, certain candidates having political influence were sought to be accommodated by allowing them to join Lower School Course. Even certain additional seats were also allocated for this purpose. On coming to know about the discriminatory attitude of the respondents, various writ petitions were filed before this Court seeking directions to the respondents to depute the petitioner and others for the Lower School Course, in which by an order dated 15.02.2011, respondent No.2 was asked to consider the claim of all the petitioners therein. However, on 09.03.2011, the respondents passed an order declining the claim of the petitioners. Since, by that time, the course had already commenced, the said writ petitions were disposed of on the basis of the statement given by the State counsel that *at the time of commencement of the next course, the State shall have no objection for consideration of case of the petitioner, subject to his being found eligible*. It is alleged that instead of considering the claim of the petitioner and others, respondent

No.2 passed an order dated 25.01.2012 rejecting the claim of the petitioner for sending them to training course. The said order was challenged by way of filing CWP No.5414 of 2012 wherein, the matter was ordered to be considered to be put up before the Officers' Committee appointed by this court in terms of the decision dated 06.01.2012 passed by this Court in a similar civil writ petition No.6259 of 2011. However, the Officers' Committee rejected the claim of the petitioner and the recommendations of the committee were approved by respondent No.2 on 15.05.2012. The said order dated 15.05.2012 passed by respondent No.2 was thereafter challenged in CWP No.19301 of 2012 and the said case was withdrawn with liberty to the petitioner to approach the respondent-authorities for redressal of his grievance. The petitioner accordingly submitted representation dated 10.12.2012, however, on failing to decide the said representation by the respondents, the petitioner again filed CWP No.24857 of 2013 for issuance of a direction to the respondents to decide the said representation. This Court, by an order dated 12.08.2016 passed in the said petition, directed respondent No.2 to decide the representation dated 10.12.2012 of the petitioner within a period of two months. In compliance with the direction issued by this court, respondent No.2 considered the representation dated 10.12.2012 of the petitioner and rejected his claim vide order dated 12.11.2016, which order has been assailed in the instant writ petition.

3. Mr. G.P.S. Bal, learned counsel appearing on behalf of the petitioner would argue that the name of the petitioner was listed at Sr. No.1 in the waiting list of B-1 test held in February, 2009, whereas, the name of

the few other candidates, who have been deputed, were not even on the waiting list, as such, the claim of the petitioner is genuine. It is argued that the impugned order dated 12.11.2016 is non-speaking one and unsustainable in the eyes of law, as the claim of the petitioner has been rejected in an arbitrary manner.

4. Notice of motion was issued in the matter, pursuant to which an appearance has been caused on behalf of the respondents and a reply also came to be filed.

5. Mr. Sehaj Bir Singh, learned State counsel would argue that the petitioner appeared in B-1 test in the year 2009 in Ropar District and in that year 13 seats were allocated to Ropar District for Lower School Course. Total 13 candidates, who passed B-1 test, were selected for Lower School Course in the year 2009 in Ropar District and the name of the petitioner was in waiting list, as such, he was not deputed to the Lower School Course in the year 2009. It is contended that the prayer of the petitioner in the present writ petition is in violation of Rule 13.7(2)(c) of Punjab Police Rules, 1934. It is further argued that the petitioner cannot claim after 8 years of B-1 test that one additional seat may be allocated for Lower School Course in Ropar District. It is pointed out that in the year 2009, B-1 test was conducted District wise and in case, the prayer of the petitioner is accepted at this stage, then other Constables, whose names were on the waiting list of B-1 test in the year 2009 in their respective Districts, they would also claim parity with the petitioner and it will disturb the entire seniority list of the Police Department.

6. I have heard learned counsel for the parties, apart from perusing

the record of the case.

7. In the instant case, the main grievance of the petitioner is that his name was at Sr. No.1 in the waiting list of B-1 test held in February, 2009, however, name of the few other candidates, who have been deputed for the Lower Course School, were not even in the waiting list.

8. In this regard, the reply submitted by the respondents is clear to the effect that only 13 seats were allotted to the Ropar District for Lower School Course on the basis of B-1 test held in the year 2009 and 13 Constables, who passed B-1 test, were selected for Lower School Course in the year 2009 in Ropar District. Further, in this regard, Rule 13.7(2)(c) of Punjab Police Rules, 1934 is clear 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 next year. A constable cannot claim any benefit of waiting list of previous year for this purpose.

9. It is also pertinent to mention herein that order dated 25.01.2012 passed by the Director General of Police, Punjab (Annexure P-4) makes it clear that competent authority allotted some additional seats to Patiala and Ferozepur Districts and these seats were sanctioned as per discretion and not as a matter of right. The said order passed by the Director General of Police, Punjab, further observed that the petitioner(s) cannot claim, after expiry of one year, that additional seats may be allotted in Police District Moga, Khanna, Ludhiana, Mansa, Fatehgarh Sahib, Sangrur and Ropar. In this regard, this court is the considered view that that if the competent authority allotted some more seats to two of the Districts, it cannot give any right to the petitioner to claim to allocate one

additional seat to him as well at Ropar because he was in the waiting list at Sr. No.1 in the B-1 test held in 2009 in the Ropar District. Rule 13.7 (2)(c) of the Punjab Police Rules, 1934 does not permit IT, as discussed above, because if a Constable is not deputed to the Lower School Course in a particular year, he has to appear in B-1 test afresh in next year, as provided under the said Rule.

In view of the above, this court finds no illegality or infirmity in the impugned order so passed respondent No.2, as such, the instant writ petition is hereby dismissed.

April 2, 2022
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No