

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

CWP No.8036 of 2017

Date of Decision:06.04.2022

Meena Kumari

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Aditya Yadav, Advocate
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

JAISHREE THAKUR, J. (ORAL)

The petitioner herein assails order dated 27.03.2017 Annexure P-6 passed by respondent No.4, on the ground that Clause 11 of Rule 13.7 of the Punjab Police Rules, has not been read in its correct perspective.

Counsel for the petitioner would contend that petitioner-Meena Kumari, Belt No. 843, Bhiwani came to be appointed as lady constable in Haryana Police on 19.02.2002. Then, she did her graduation with permission from her department and got various commendation certificates. In the year 2007, respondent No.2 issued instructions dated 13.02.2007 for minimum bench marks that would be 31 marks, to be obtained for eligibility for B-1 course under the 35% quota. 55% of the seats allotted to a unit in the lower course were to be filled on the basis of competitive examination, 35% of the seats to be filled on the basis of seniority-cum-fitness (this would be applicable to the petitioner) and 10% on the basis of consistent outstanding performance pertaining to sports or

exceptional display of bravery during the course of performance of official duty. The petitioner obtained 33 marks, well beyond the prescribed 31 marks benchmark, and therefore, it is claimed that the petitioner had right to be considered to be sent to B-1 course., as against respondent No.5-Raj Kala who had obtained 31.5 marks. Since respondent No.5-Raj Kala was being considered to be sent for B-1 course, the petitioner filed a writ petition No.13694 of 2013 claiming entitlement to be sent for the said course, over and above respondent No.5 namely Raj Kala. The writ petition was disposed of by giving a direction to consider the case of the petitioner in accordance with a judgment passed by this Court in Naresh Kumar vs. State of Haryana and others, CWP No.7952 of 2004 decided on 05.11.2004 and Balraj Singh and others vs. State of Haryana and others, 2009(2) RSJ 463. The case of the petitioner was considered and rejected by order dated 19.02.2014, wherein it was observed that respondent No.5-Raj Kala was senior to the petitioner-Meena Kumari in inter se merit and had rightly been deputed to B-1 course. Aggrieved against the order dated 19.02.2014, the petitioner was constrained to file another writ petition in the High Court, which is CWP No.5578 of 2014. The said order dated 19.02.2014 was again set aside on 28.02.2017 with a further direction to reconsider the claim of the petitioner for sending her to B-1 course. Strangely enough, the impugned order Annexure P6 has been passed, taking a similar stand that as respondent No.5-Raj Kala had secured 31.5 marks, on the basis of service record and only 31 marks was the benchmark to qualify, Raj Kala has rightly been sent. Petitioner assails the impugned order passed by contending that Rule 13.7 (11) of the Punjab Police Rules have not been taken into account, while passing the impugned order. Therefore, the petitioner's claim for being sent for B-1 course prior to respondent No.5-Raj Kala, deserved to be accepted.

While hearing this matter it is taken note of that service has been effected upon respondent No.5, who chose not to appear or file any written statment.

Counsel for the respondent-State would submit that a conscious decision was taken, keeping in view the directions passed by the Court to consider the claim of the petitioner and it was found that respondent No.5-Raj Kala with 31.5 marks, deserved to be sent for B-1 course. He would further submit that in terms of the orders of the Court, the inter se seniority was taken into account and it was found that both the petitioner and respondent No.5 had joined on the same date and then, the inter se merit in the basic recruitment course was taken into consideration. It was found that respondent No.5-Raj Kala had been recruited with merit at 115/425 while the petitioner was having a merit of 133/425, therefore, respondent No.5-Raj Kala was senior to the petitioner in the inter se seniortiy in the basic recruitment course, therefore, she was rightly recommended for the list of B-1 course against the single seat, meant for Bhiwani district.

Rule 13.7(11) of the Punjab Police (Haryana Amendment) Rules, 2001 states as under:

“If at the time of selection for admission in list B-1, the score of two constables is found to be equal, then the constable who is senior in service shall be selected for admission to list B-1. Further, in case, two constables who have equal scores and the same seniority, then the constables who is higher inter-se merit in the recruits course shall be brought on list B-1.”

Clause 11 of Rule 13.7 is very clear to the extent that all constables, who are to be considered for admission in the List B-1, the person with a higher score is to be sent. It is only when a dispute arises and the score of two constables is found to be equal, then, the constable who is senior in service shall

be selected for admission in B-1 list. Further, the rule would stipulate that in the eventuality of two constables having equal scores and same seniorty, it is the constable who is having higher inter se merit in the recruit course, shall be brought in the B-1 list, which is not the situation herein. The authorities below have failed to consider that the petitioner herein has a higher score i.e. 33 marks against respondent No.5-Raj Kala, who has 31.5 marks and therefore, it would not be a situation of two constables, having equal scores at the same seniority, for them to look into the inter se merit of the recruits scores, to send Raj Kala for B-1 course. Clause 11 has been totally misinterpreted by the authorities concerned and therefore, this Court has no hesitation in setting aside the said order.

This writ petition is allowed accordingly.

Consequently, while setting aside the impugned order, it is directed that the seniority of the petitioner herein would be recast considering her to have been sent for B-1 course, prior in time to respondent No.5-Raj Kala.

April 06, 2022
P.Bhatt

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No