

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

CWP No.9673 of 2017 (O&M)

Reserved on 17.08.2022

Pronounced on: **05.09.2022**

Baljit Singh

.... Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

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

Mr. Tapan Kumar, DAG, Haryana.

Mr. Aditya Yadav, Advocate,
for respondent No.5.

JAISHREE THAKUR.J

1. The instant writ petition has been filed under Article 226/227 of the Constitution of India seeking an appropriate writ, order or direction especially in the nature of certiorari for quashing the impugned letter dated 17.03.2017, Annexure P-4, whereby the representation filed by the petitioner has been rejected. Directions has also been sought for constituting a fact finding Committee to look into the illegal promotion given to respondent No.5-Mahima Singh by extending him undue favour by illegally changing his category from BC-A to that of SC/ST.

2. In brief, the facts, as pleaded, are that the petitioner, who belongs to SC category, was appointed as a Constable. B-1 test for further promotion was conducted in the year 2008. Petitioner and respondent No.5

were shown as having passed the test. However, the name of respondent No.5 was shown as belonging to SC/ST category whereas he in fact belongs to the BC-A category. There were 9 posts reserved for SC/ST category and by changing the category of respondent No.5, he was included in the approved list and promoted to the rank of Sub-Inspector. The petitioner, being eligible, ought to have been promoted instead of said respondent. It is alleged that the petitioner submitted various representations against the illegal promotion given to said respondent by treating him to be in SC category, however, the same were not redressed. Ultimately, the petitioner addressed a letter, Annexure P-2, dated 11.07.2016 to the Inspector General of Police, IRB, Bhondsi, respondent No.2, regarding denial of his promotion on account of manipulation by changing the category of respondent No.5 and promoting him under SC category. Since his complaint/representation, Annexure P-2, was not being decided, he sought permission for personal appearance before respondent No.2, however, the same was rejected vide letter dated 15.12.2016. Ultimately, vide impugned order dated 17.03.2017, his representation, Annexure P-2, was rejected being time barred. The petitioner thereafter sought information under the RTI Act as to how the category of respondent No.5 came to be changed, but no information was forthcoming.

3. Learned counsel appearing on behalf of the petitioner would contend that the petitioner has been denied his legitimate right of promotion from SC/ST category in the year 2008, by treating respondent No.5 who in fact belongs to BC-A category, under the SC/ST category. It is contended that an enquiry deserves to be got conducted in this matter.

4. Reply on behalf of respondents No.1 to 4 has been filed wherein it is stated that B-1 test for IRB was conducted by the department in the year 2008 and both the petitioner as well as respondent No.5-Mahima Singh appeared in the test. A merit list was prepared wherein name of the petitioner was reflected at serial No.10 and respondent No.5 was shown at serial No.2. Out of 44 seats allotted to Ist IRB, 9 seats were reserved for candidates belonging to SC/ST category whereas remaining seats were from the General category. Respondent No.5-Mahima Singh, who belongs to BC-A category, while being approved in the B-1 test, was inadvertently shown to be belonging to SC/ST category. Respondent No.5 who was declared as a Scheduled Caste in fact belongs to the *Banjara* Caste which is a Backward Class whereas there is another caste in the name of *Bhanjra*, which is declared as a Scheduled Caste and since both the castes are similar, respondent No.5 was wrongly treated as a candidate of the Scheduled Caste.

5. Learned counsel appearing on behalf of respondent No.5 would assail the writ petition on the ground of limitation by contending that promotions took place as far back as in 2008 and the writ petition has been filed after an inordinate delay of about 10 years. He would contend that respondent No.5 obtained 65.50 marks which is much higher in merit than the petitioner herein who obtained only 50 marks.

6. I have heard learned counsel for the parties and have perused the pleadings of the case.

7. The writ petition, which has been filed after an inordinate delay of about 10 years after the promotion had been accorded, deserves to be

dismissed at the outset on the ground of delay and laches. It is an admitted fact that a merit list had been prepared in the year 2008 reflecting the name of respondent No.5 at serial No.2 with 65.5 marks and the petitioner with 50 marks at serial No.10. The petitioner chose not to challenge the said promotion order at the relevant time and sat back having accepted the same. He approached the authorities concerned for the first time seeking information under the Right to Information Act, in the year 2011 requesting as to whether Mahima Singh, respondent No.5, was promoted by giving him benefit of reservation and as to which category he belongs. The information was denied by the Commandant citing government notification which had exempted information being supplied of persons belonging to Crime Branch HAP Security/Telecom, IRB and Commando. Again the petitioner chose not to take any appropriate step for redressal of his grievance and then addressed a letter after a period of 5 years to the Inspector General of Police, IRB as to how respondent No.5 could have been promoted under a wrong category. It is only thereafter that the instant writ petition has been filed.

8. The respondents in their reply have admitted that it was on account of an inadvertent mistake that Mahima Singh, respondent No.5, was treated as a Scheduled Caste by taking his Banjara Caste which is under BC-A, as Bhanjra caste.

9. Be that as it may, this Court is of the opinion that the petitioner has been a fence-sitter and has not approached for his grievance within a reasonable time. The cause of action arose when promotion to the post took

place in the year 2008, and thereafter the petitioner in a half hearted attempt tried to seek information under the RTI and thereafter, he sat back. He should have approached the Court at the relevant time. Now at this belated stage, his case cannot be considered as it would disturb the whole seniority. The law is well settled that the seniority list as prepared should not be disturbed after a long period of time as would be in the instant case. Reference may be made to the judgment rendered in *State of Uttaranchal Versus Sri Shiv Charan Singh Bhandari 2013(12)SCC 179*.

10. Finding no ground for interference, the writ petition stands dismissed.

(JAISHREE THAKUR)
JUDGE

05.09.2022

sanjeev

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No