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

CWP No.14695 of 2017 (O&M)

Date of Decision: 18.04.2023

SATISH KUMAR

.....Petitioner

Vs

STATE OF HARYANA AND OTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

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

Mr. Naveen Singh Panwar, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

[1]. Written statement on behalf of the respondents No1 to 4 has been filed in the Court itself, a copy thereof has been supplied to learned counsel for the petitioner. Learned counsel for the petitioner is ready with the arguments.

[2]. With the concurrence of the parties, I have heard the arguments.

[3]. The petitioner has assailed the order dated 06.04.2017 passed by the respondent No.4 thereby removing the petitioner from the List B-1 under 55% quota for the year 2016 on account of minor punishment.

[4]. The petitioner was enrolled as Constable in the Haryana Police on 08.07.2009. As per amendment carried out in the Punjab Police Rules in the year 2001, 55% seats are reserved for B-1 on the basis of test-cum-merit. 35% seats are reserved for seniority-cum-fitness and 10% seats are reserved for sports quota and outstanding performance given by the candidates. The eligibility of 55% seats would apply to the candidates below the age of 35 years and those who have completed 5 years service as on 1st day of January in which year the selection is made. 35% seats are available for the candidates under the age of 40 years, who have completed 5 years service as on 1st January of the year in which selection is made.

[5]. The petitioner belongs to 55% quota. In the merit list of B-1 for the year 2016, the petitioner was at Sr.No.1 having secured 81.25 marks in total. The punishment was imposed upon the petitioner on 12.12.2016. The office of Inspector General of Police, South Range, Rewari in a written communication addressed to the Superintendent of Police, Mewat at Nuh communicated that the petitioner is under currency of punishment of censure awarded on 12.12.2016 in respect of allegation of leaking information to the accused, therefore, the name of the petitioner was not approved in List B-1.

[6]. Learned counsel further submits that as per competitive examination and final list prepared for B-1 test in the year 2016 under 55% quota, the name of the petitioner figured at Sr.No.1 having secured grand total of 81.25 marks. The petitioner has been disqualified only on account of punishment of censure which was awarded later on. As per eligibility criteria, the eligibility of the candidate is to be tested with reference to the date as on 1st January of the year for which the selection is to be made.

[7]. Learned counsel for the petitioner with reference to the Rule 13.07 of the Punjab Police Rules, 1934 as amended by the amendment in the year 2001 submits that the selection of List B shall be approved in the month of January of each year and shall be limited to the number of seats allotted to the District for the said year. The number of seats in Lower School Course in a year shall be allotted on the basis of existing vacancies and the vacancies likely to be created within one year in the respective unit. 55% of the seats allotted to a unit in the Lower School Course shall be filled in on the basis of competitive examination.

[8]. In support of his contention, learned counsel for the petitioner has relied upon decision dated 06.12.2007 passed in the **LPA No.108 of 2007** titled **'Ramesh Kumar Constable vs. State of Haryana and others'** wherein it was held that the age

criteria is to be seen on the day when the list is to be prepared in the month of January of each year. The date of commencement of the course was held to be of no consequence.

[9]. Learned counsel for the petitioner also relied upon the order dated 16.01.2017 passed in **CWP No.5784 of 2016** titled **'Ct. Bhupinder Singh vs. State of Haryana and others'**

wherein it was held that the eligibility is to be seen as on 1st January of the relevant year for which the list is to be prepared. The punishment of censure is no impediment as the same was not in existence on the date of eligibility i.e. 01.01.2016.

[10]. Per contra, learned State counsel with reference to Rule 13.07(12) of the Punjab Police Rules submits that as per proviso attached to the aforesaid rule, no constable during the period when he is undergoing punishment shall be eligible for entry into promotion list B. For inclusion in list B against 35% seats reserved for seniority-cum-merit officials having two or more major punishments in their service career shall be debarred from being considered for promotion list B.

[11]. Evidently, the requirement of Rule is to see eligibility. As per eligibility criteria, the eligibility is to be seen as on 1st day of January of the relevant year. Even as per Rule 13.7(13) of the Punjab Police Rules, the name of the official, who is in

promotion list B-1 shall be automatically removed on award of major punishment. Censure in any case is not a major punishment. Even otherwise, the aforesaid Rule is not applicable to the facts of the present case.

[12]. In view of the ratio(s) as laid down in 'Ramesh Kumar Constable and Ct. Bhupinder Singh's cases (supra), this writ petition is allowed. The impugned order dated 06.04.2017 passed by the respondent No.4 is quashed. As a consequence, the petitioner is ordered to be deputed in the next course and his seniority be determined as per list B-1 of the year 2016.

April 18, 2023

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No