

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

**CWP No.21057 of 2020
Date of decision : 16.03.2023**

Harinder KumarPetitioner

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Krishan K. Thakur, Advocate
for the petitioner.

Mr. Inderpreet S. Kang, Asstt. Advocate General, Punjab

PANKAJ JAIN, J.

Petitioner in the present writ petition seeks writ in the nature of mandamus directing the respondents to grant him benefits of pay fixation, seniority etc. as Constable from the date he completed six months' service as SPO.

2. Petitioner was enlisted as Special Police Officer on 9th of September, 1991 in the district Bathinda. The SPOs enlisted all over the State of Punjab during the time of terrorism sought absorption as police constables. The issue finally was decided by Division Bench of this Court in **CWP No.7451 of 1996** titled as '**Lal Mohd. vs. State of Punjab and others**' holding as under :-

“We dispose of this petition with a direction to the respective Senior Superintendent of Police to consider the claim of the petitioners for absorption as Constables with effect from the date their juniors have been so appointed. In case the petitioners are found suitable,

orders of their appointment be issued. Consequential reliefs regarding fixation of pay and seniority shall follow. Keeping in view the large number of SPOs/Auxiliary Constables involved in these cases, we will not order payment of arrears of salary to avoid unnecessary burden on the State Government at this stage.

Directions issued above be carried out within six months from the receipt/production of a certified copy of this order. No costs.”

3. Respondent No.2 vide Instructions dated 2nd of July, 1999 redressed the issue of absorption of SPOs as Constables from the deemed date and it was decided that the deemed date of absorption be granted to all suitable SPOs from the date persons junior to them enlisted as Constables in their respective districts. Petitioner has been ordered to be absorbed as Constable w.e.f. 22nd of February, 1994 vide order dated 13th of September, 1994.

4. Counsel for the petitioner submits that the petitioner was entitled to be absorbed as Constable on completion of six months of his service as SPO.

5. Per contra stand of the respondent-State has been spelled out in Para No.2 of the preliminary submissions which read as under :-

“2. The state complied with the judgment dated 12.12.1996 in SPO Lal Mohammed's case and all SPOs working in the State were considered for the post of Constable in July 1997 by the Central Recruitment Board. Out of nearly 16000 SPOs, 4647 SPOs were found suitable for the post of Constable in the year 1997. Those SPOs, who passed suitability test for the post of

constable in the year 1997, were allotted constabulary numbers and they were also granted benefit of notional pay fixation (from the date persons junior to them were allotted constabulary numbers in their respective districts). The SPOs who were found suitable for the post constable by the Recruitment Board in July 1993 were also granted benefit of notional pay fixation (from the date persons junior to them were allotted constabulary numbers in their respective districts). The petitioner of the present CWP was appointed as SPO on 09.09.1991 and found suitable for the post of constable in July 1993, which he was posted in District Mansa as such, he was granted deemed date of enlistment as constable w.e.f. 22.02.1994 instead of 13.09.1994 (Actual) i.e. the date from which his junior SPO was appointed as constable out of turn basis in District Mansa. The decision of the department in this regard was in consonance with directions issued by the Hon'ble Punjab and Haryana High Court Chandigarh vide its order dated 12.12.1996 in CWP No. 7451 of 1996, as mentioned above and direction issued vide Director General of Police, Punjab Chandigarh vide his office memo No.16318-40/E-1, dated 02.07.1999 (Annexure P-3), and 6087/LA-2 dated 24.07.2000. As such, the petitioner has already been granted due benefits in view of judgment dated 12.12.1996 passed by this Hon'ble Court in CWP No. 7451 of 1996 titled as Lal Mohammed versus State of Punjab and others.”

6. I have heard counsel for the parties and have gone through records of the case.

7. Facts are not much in dispute. Petitioner in the present case was appointed as SPO on 9th of September, 1991 and was granted deemed date of enlistment as Constable w.e.f. 22nd of February, 1994 instead of 13th of September, 1994. It has been asserted that there is no other person junior to the petitioner who was granted deemed date of

appointment before 22nd of February, 1994.

8. Counsel for the petitioner has not been able to point out any person junior to the petitioner in district Mansa who stands absorbed w.e.f. the date earlier to the deemed date of absorption granted to the petitioner.

9. In view of the aforesaid, no relief as prayed for can be granted to the petitioner. This Court finds that the petitioner has been fairly considered and granted deemed date of absorption from the date persons junior to him in the district Cadre of Mansa got absorbed.

10. Consequently, the present writ petition is dismissed.

March 16, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No