

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

**CWP No.5648 of 2017 (O&M)
Date of decision : 16.03.2023**

Sukhmander Singh and othersPetitioners

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

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

PANKAJ JAIN, J.

Petitioners in the present writ petition are seeking writ in the nature of mandamus directing the respondents to grant them benefits of pay fixation, seniority etc., as Constables from the date they completed six months' service as SPOs.

2. Petitioners were enlisted as Special Police Officers in the years 1991-1992. The issue w.r.t. absorption of SPOs enlisted with State of Punjab as Constables cropped up and was finally decided by Division Bench of this Court in **CWP No.7451 of 1996** titled as '**Lal Mohammad vs. State of Punjab and others**'.

3. Respondent No.2 vide Instructions dated 2nd of July, 1999 addressed the issue of absorption of SPOs as Constables from the deemed date and as a policy 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. Petitioners have been ordered to be absorbed as Constables w.e.f. 29th of December, 1997 but not from the date persons junior to them have been absorbed.

4. Counsel for the petitioners submits that Annexure P-8 is the list of Constables who were junior to the petitioners as SPOs but are deemed to have been absorbed as Constables w.e.f. 27th of August, 1993. As an illustration he submits that Parminder Singh at Sr. No.1 in the list attached at Annexure P-8 got enlisted as SPO on 29th of June, 1992, he was absorbed as Constable vide order dated 28th of November, 1997 but was granted deemed benefit of absorption w.e.f. 27th of August, 1993. In comparison thereof the petitioner who was enlisted as SPO on 29th of May, 1992 was absorbed as Constable on 29th of December, 1997 without any deemed date. In this manner persons enlisted as SPOs after the petitioners have got march over them at the time of absorption as Constables. Counsel for the petitioners submits that all persons enlisted in Annexure P-8 along with the petitioner were appointed as SPOs in the erstwhile district of Faridkot. However, district Faridkot was bifurcated in November, 1995 and a new district Moga was came into being. Petitioners became SPOs of Moga district and have been absorbed in the Moga District Cadre though on the deemed date of absorption they were all

enlisted as SPOs in the district of Faridkot. He thus submits that all the petitioners have been discriminated against without there being any reasonable basis. The action of the respondents in denying deemed date of absorption to the petitioners from the date their juniors were appointed/absorbed being in violation of Articles 14 and 16 of the Constitution of India needs to be interfered.

5. Per contra, Mr. Kang relies upon additional affidavit of Manjit Singh, PPS, Assistant Inspector General of Police, ARP-cum-SDRF, Jalandhar Officer of Special Director General, State Armed Police Punjab, Jalandhar to submit that exercise of granting deemed date in terms of the directions issued by this Court in Lal Mohammad's case (supra) was carried out in its true letter and spirit. Claim of the SPOs for absorption as Constables was given effect to from the date their juniors have been so absorbed. Since they were all absorbed in district cadre, their seniority at the time of absorption had to be considered district-wise. Persons as pointed-out in the list Annexure P-8 are Constables of District Faridkot whereas petitioners are the Constables in the district cadre of district Moga. There is no candidate in district Moga who is junior to the petitioners but has been granted deemed date of absorption earlier to the petitioners. Thus, no fault can be found with the action of the respondents.

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

7. Facts being matter of record are not much in dispute.

Following directions were issued by Division Bench in the case of **Lal Mohammad's** case (supra) :-

“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.”

8. Based on above directions, respondent No.2 issued Instructions dated 2nd of July, 1999 which read as under :-

“From

The Director General of Police,
Punjab.

To

All Senior Superintendent of Police in Punjab,
Addl. DGP, PAP, Jalandhar.
Memorandum No. 16318-40/E-3
Dated, Chandigarh the: 2/7/1999.

Subject:- Absorption from deemed date

Reference this office memo No. 3228-51/E-3 dated 6.2.98, on the subject noted above.

2. As mentioned in the aforesaid letter, the Hon'ble High court of Punjab & Haryana in CWP No, 7451 of 1996 has issued directions to consider the claim of the petitioners for absorption as

constables w.e.f. the dates persons juniors to them were so appointed and in case, the petitioners are found suitable, orders of their appointment be issued.

3. you were requested vide memo no. 3228-51/E-3 dated 6.2.98 to get the pay of the petitioners only refixed from the date persons junior to them were enlisted as constables in their respective district and accordingly, the petitioners of CWPs were granted deemed dates. Now it has been decided to give deemed dates to all the test passed SPOs with effect from the date their juniors SPOs were appointed as constables in their respective districts. You are, therefore, requested to supply information in respect of those juniors SPOs of your district who were enlisted as constable in your district/ unit on out of turn basis, as compared to those who have now been enlisted in PAP(from the list of qualified SPOs). The information regarding the junior SPOs (who were allotted constabulary number in your district on out of turn basis) be supplied to the Addl. D.G.P./PAP Jalandhar within 3 days positively through a G.O. of your district, accompanied by the concerned dealing hand.

FOR THE ADDL. D.G.P./PAP, ONLY:- Earlier the deemed dates were granted to the petitioners of (various CWPs) only. However, now the deemed dates may be granted to all suitable S.P.Os (from the dates persons junior to them were enlisted as constables in their respective districts). Reference point of a junior SPO who was first (earliest) allotted a constabulary number, out of turn, compared to the suitable SPO, individually, be taken from the concerned district/unit. The date on which such a junior SPO was allotted constabulary number be fixed as the deemed date of appointment for the non-petitioners also.

Sd/-
For Director General of Police,
Punjab.”

9. The directions issued by this Court as well as the

instructions are explicitly clear. Reference point is the junior SPO who was first allotted constabulary number. Once an SPO is found suitable he has to be allotted constabulary number from the deemed date person junior to him in the list of SPO was allotted.

10. Petitioners along with others mentioned in the list Annexure P-8 were all enlisted as SPOs in District Faridkot. There is also no denial to the fact that the persons mentioned in Annexure P-8 are all junior to the petitioners as it is the date of enlistment as SPO which is to be taken into consideration. The persons mentioned in Annexure P-8 have been granted deemed date as Constable w.e.f. 27th of August, 1993. The date of consideration is thus 27th of August, 1993. On that date District Moga had not come into existence. It was carved out only in November, 1995. Thus on the date from which the persons mentioned in Annexure P-8 are deemed to have been absorbed, the petitioners were also part of 'District Faridkot' only. Since on relevant date i.e. 27th of August, 1993 petitioners along with persons mentioned in Annexure P-8 were all part of same district, petitioners cannot be discriminated. They are held entitled to be granted deemed date of absorption as Constable from the date persons junior to them in district of Faridkot as on 27th of August, 1993 have been ordered to be absorbed.

11. Respondents are directed to disburse all consequential

benefits to the petitioners within a period of 6 months from the date of receipt of certified copy of this order.

- 12. Resultantly, the present writ petition is allowed.
- 13. Pending application, if any, shall also stand disposed off.

March 16, 2023	(PANKAJ JAIN)
Dpr	JUDGE
Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No