

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

CWP-24850-2023

Date of decision : 15.11.2023

Chanchal

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Rajat Mor, Advocate
for the petitioner.

Ms. Rajni Gupta, Addl.A.G. Haryana.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of certiorari quashing the impugned order dated 13.10.2023 (Annexure P-16) passed by respondent no.3.

2. The case of the petitioner briefly stated is that vide advertisement no.3 dated 16.04.2018, the respondent-Commission had advertised 5000 posts of male Constable and in pursuance of the same, the petitioner had applied for the post of male constable, but was not shown in the list of successful candidates. It is the case of the petitioner that in the meanwhile the petitioner was appointed to the post of Constable IRB and joined on 06.03.2019 and completed his training as Male Constable IRB from 11.03.2019 to 09.01.2020. It is further the case of the petitioner that cut off marks of the last candidate in the Male Constable (GD) under BCB category were 56.20 and the petitioner was shown to have been given 51.20

marks and was not awarded 5 marks under the socio-economic criteria and thereafter, the petitioner had filed CWP-17349-2020 which was disposed of by a coordinate Bench of this Court vide order dated 16.10.2020 directing the respondent authorities to pass a speaking order after considering the claim of the petitioner. It is further the case of the petitioner that the respondent Commission did not comply with the said direction and thus, a contempt petition was filed and during the pendency of the contempt petition that the claim of the petitioner was accepted and the petitioner was recommended for appointment as Male Constable (GD) vide letter dated 25.07.2021 and has been selected at 3074-A in BCB category and in furtherance of the said recommendation, he applied for technical resignation from IRB and subsequently the resignation was accepted vide order dated 17.01.2022 and he was relieved from the post of Constable IRB. It is further the case of the petitioner that he joined as male Constable (GD) and started undergoing the recruit basic training course for the same and has completed almost two months of the said course out of a total of 9 months. The petitioner had requested the authorities to exempt him from undergoing the recruit basic training course after his appointment as Male Constable (GD) as he had already undergone the same while discharging the duties of male Constable IRB. It is the case of the petitioner that the said prayer of the petitioner was rejected vide order dated 17.02.2022 (Annexure P-14) in which it was observed that the petitioner may be deputed afresh to undergo 9 months recruit basic course along with recruit Constables GD in the next batch for the said course. The petitioner against the said order approached this Court by filing CWP-15413-2023 and this Court vide order dated 21.07.2023 directed the respondent authorities to reconsider the matter. In the said writ petition, the petitioner had relied upon a judgment of a

Coordinate Bench of this Court dated 23.08.2022 passed in CWP-16315-2022 in support of his case. This Court while disposing of CWP-15413-2023 had recorded the arguments of the learned counsel for the petitioner as well as the State with respect to the said judgment including the arguments of the State to the effect that the judgment dated 23.08.2022 of the Coordinate Bench specifically states that the said judgment is not to be treated as a precedent. This Court while giving the direction to reconsider the request of the petitioner, had made it clear that the Court had not opined on the merits of the case and the respondent-authority was directed to consider the same, in accordance with law. The respondent-authority vide order dated 13.10.2023 has considered the said request / representation independently and after giving detailed reasons, rejected the prayer of the petitioner. The relevant portion of the impugned order is reproduced hereasunder:-

“5. Whereas, it is submitted that the nature of duties of Haryana Armed Police and India Reserve Battalions are different in nature. Duty of Armed Police is to assist the civil police in enforcement of law and maintenance of order in situations of likely breach of peace, disaster management functions, in escort of prisoners and to discharge such other duties which may require special weapons and tactical teams or presence of armed police. Further, the General Duty Constables are also allocated to various districts, wherein, they are posted in Police Stations, Police Posts, DPO/Range offices and have to be deputed for Surveillance duties, for conducting searches and raids, providing assistance in investigation of cases, for performing Summon/Warrant duty, Gunman/PSOs duty and static guards duty at residences, treasuries and other places etc. After their promotion in the higher ranks, they are assigned investigation work of criminal cases etc.

India Reserve Battalions on the other hand, are deputed in the entire country for election duty, emergent Law and Order duty and such like duties as and when required by the Government of India. India Reserve Battalions are deputed in the State also to perform above duties in order to address emergent situation. In case IRB personnel are deployed in the district, they have to be deployed only on centralized day/night

patrolling, Naka duties, Prisoner escort and General Bandobast duties. They are not to be deployed at Police Stations, Police Posts, DPO/Range offices, Surveillance duties, for conducting searches and raids independently, assisting in investigation of cases, for performing Summon/Warrant duties, Gunman/PSOS and static guards at residences, treasuries and other places.

6. *Whereas, the Hon'ble Punjab and Haryana High Court while passing order dated 21.07.2023 in CWP No. 15413 of 2023 had also directed to take into consideration the judgment dated 23.08.2022 passed in CWP No. 16315 of 2022 while considering the representation to be filed by the petitioner. The Hon'ble High Court while passing order dated 23.08.2022 in CWP No. 16315 of 2022 considered the facts and relevant provisions mentioned in above para 4 and 5 and allowed the Civil Writ Petition. Simultaneously, the Hon'ble High Court itself in said judgment also held that the order shall not be treated as a precedent.*

7. *Whereas, after considering all above aspects, the undersigned is of the considered view that the representationist/petitioner should undergo and qualify the basic training course as General Duty Constable for the reasons mentioned below:-*

(i) There is no provision to exempt General Duty Constable from passing basic training course in Haryana Police Act-2007 and Punjab Police Rules-1934 as applicable to the State of Haryana and undersigned is not competent to take any decision contrary to the applicable statutory provisions/rules.

(ii) Duties to be performed by IRB constables and General Duty Constables in Haryana Police are altogether different except Law and Order duty and Security deployment duty. The representationist/petitioner had undergone basic training Courses IRB constable in Recruit Basic Course (RBC) conducted w.e.f. 11.03.2019 to 09.01.2020 at RTC/Bhondsi, Gurugram i.e. more than three years and nine months ago. After completion of Basic Training Course, he remained confined to forewalls of IRB. Three years and nine months is a long period and considering the nature of duties to be performed by General Duty Constables, it would be in the interest of the institution as well as representationist/petitioner to pass Basic Training again in order to refresh and enhance his skills.

(iii) Any training course including basic training course is not merely an exercise of taking examinations and going through physical training. The trainees live with their counterparts and form group which is helpful to them throughout the service Hence, the representationist/petitioner while undergoing basic training

course as General Duty Constable would be able to develop camaraderie and bond with batchmates of General Duty Constables.

(iv) Moreover, undergoing and passing basic training course as General Duty Constable would not only help the representationist/petitioner in enhancing his skills, but may also be beneficial for increasing his tally during selection process of promotion List B for admission in Lower School Course for promotion in rank of Head Constable in view of provisions laid down in Rule 13.7 (4)(iii) of PPR amended vide notification dated 07.08.2017. Relevant provision of said rule 13.7 (4) (iii) meant for enlistment in promotion List B is as under. -

PPR 13.7 (4)(iii) Training Courses Passed:

"Maximum marks awarded for training courses passed by a candidate shall be thirty. Only the training courses passed by the candidates upto 31st December of the year preceding the year in which selection is made shall be taken into account while awarding marks. Constables who obtain all around 1st, 2nd and 3rd positions in the basic recruit training course shall be awarded 15, 10 and 05 marks respectively."

(v) India Reserve Battalions and Haryana Police are different cadre. If any exemption is granted to General Duty Constable/Petitioner from Basic Training Course considering the fact that he had already undergone and completed 09 months Basic Training Course while he was enrolled as constable in IRB, it would open door towards a decision that training course completed in a different cadre would make the recruits eligible for exemption from training course(s), if they are enrolled in some other cadre and would result in unnecessary complications leading to new issues and litigations.

Hence, request made by Recruit Constable Chanchal No. 5/951 HAP (petitioner) in his representation dated 25.08.2023, is not tenable in view of aforementioned grounds. Accordingly, representation submitted by the representationist is hereby rejected being devoid of merit. ”

3. Learned counsel for the petitioner has submitted that the case of the petitioner is covered by the judgment of the Coordinate Bench of this Court in CWP-16315-2022 and has submitted that the petitioner belongs to

Batch No.86 as were the petitioners in the above said writ petition and even

in the above said case, the petitioners therein had completed the recruit basic training course while being in service as Constable IRB and were on the said ground exempted from undertaking the said course after appointment as male Constable (GD). It is submitted that the observations made in the said judgment fully support the case of the petitioner and on the basis of the observations made in the same, the relief which has been granted to the petitioners therein should also be granted to the present petitioner. It is submitted that the impugned order is in the teeth of the said judgment and thus, deserves to be set aside.

4. This Court has heard learned counsel for the parties and has gone through the paper book.

5. A perusal of the impugned order, the relevant portion of which has been reproduced hereinabove, would show that various reasons have been given in the impugned order for rejecting the prayer of the petitioner for being exempted from undergoing recruit basic training course after enrollment as General Duty Constable. It has been specifically noticed in the impugned order that there is no provision to exempt a General Duty Constable from undergoing basic training course in Haryana Police Act 2007 and Punjab Police Rules 1934 as applicable to the State of Haryana. It has further been noticed that the nature of duties of the Haryana Armed Police and India Reserve Battalions are different inasmuch as the duty of the Armed Police is to assist the civil police in enforcement of law and maintenance of order in situations of likely breach of peace, disaster management functions, to escort prisoners and to discharge such other duties which require special weapons and tactical teams and further that the General Duty Constables are allocated to various districts, wherein they are posted in Police Stations, Police Posts, DPO / Range offices and have to be

deputed for Surveillance duties, for conducting searches and raids, providing assistance in investigation of cases, for performing summon/warrant duty, Gunman/PSOs duty and static guards duty at residences, treasuries and other places and after their promotion in the higher ranks, they are assigned investigation work of criminal cases. On the other hand, India Reserve Battalions are deputed in the entire country for election duty, emergent Law and Order duty and they are not deployed at Police Stations, Police Posts, DPO/Range Offices, Surveillance duties and for conducting searches and raids independently, assisting in investigation of cases or as Gunman/PSOs and static guards at residences, treasuries and other places. It is further observed in the impugned order that the India Reserve Battalions and Haryana Police are different cadres and in case any exemption is granted to a General Duty Constable from undergoing the basic training course, then it would open a pandora's box inasmuch as a person who has done training course in one cadre would claim exemption from undergoing the said training course in other cadres inspite of there being no such exemption provided in the relevant rules, which would lead to several complications, issues and litigations. The impugned order also takes into consideration the fact that the petitioner had undergone basic training course as IRB Constable from 11.03.2019 to 09.01.2020 which was 3 years and 9 months ago and sufficient time has elapsed and for the petitioner to perform his duties as a General Duty Constable, it would be in the interest of the institution as well as the petitioner to do the present basic training course which would also enhance his skills. The impugned order also takes note of the fact that training with counterparts by forming groups helps the employee throughout his service as it would help developing camaraderie and bond with other General Duty Constables and is also beneficial for

increasing the tally of the petitioner for being promoted to List B. The impugned order has also taken into consideration the relevant rules and regulations including Section 18(3) of the Haryana Police Act 2007 which specifically provides that no police officer shall be deployed on duty without undergoing and passing the basic training as may be prescribed and as per Rules 19.2.(1) of Punjab Police Rules 1934 as applicable to the Haryana, the recruits shall not be passed into the ranks until they have undergone the 9 months training. The said observations in the impugned order have not been shown to be either perverse or against rules / regulations. The reasons given in impugned order are valid and do not call for any interference. Considering from any angle, the basic training which is prescribed for Male Constable (GD) is mandatory and cannot be exempted. It is not in dispute that the petitioner has already undergone almost 2 months of training after having been appointed as Constable (GD) and thus, is well aware of the importance of the same. There is nothing on record to show that the petitioner by undergoing the said training would in any way be disadvantaged in his service career. In fact the said training would make the petitioner more skillful and physically fit.

6. The reliance placed upon by the learned counsel for the petitioner, on the judgment of the coordinate Bench dated 23.08.2022 passed in CWP-16315-2022 would also not further the case of the petitioner, on the following grounds:-

i) A perusal of the said judgment would show that it has been specifically noted that the same shall not be treated as a precedent and thus relying upon the said judgment to grant relief to the petitioner would result in making the said judgment a precedent.

ii) The reasons as stated in para 7 (ii) and (iii) of the impugned

order have neither been raised nor considered by the coordinate Bench.

iii) Although an argument was raised before the coordinate Bench on behalf of the State with respect to there being difference in the nature of duties of the two cadres but the same was not raised as elaborately as has been stated in paragraph 5 of the impugned order.

7. Keeping in view the above said facts and circumstances, the impugned order dated 13.10.2023 being well reasoned and having been passed in accordance with law, is upheld and the present petition being meritless, deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

November 15, 2023.
Davinder Kumar

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