

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

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CWP-24701-2023

Date of decision : 03.11.2023

Ravinder Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

***CORAM: HON'BLE MR. JUSTICE VIKAS BAHL***

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

Ms.Palika Monga, DAG, 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-14) passed by respondent no.3.

2. The case of the petitioner 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 and the roll number of the petitioner was shown in the waiting list. It is further the case of the petitioner that the petitioner was selected to the post of male Constable IRB, which was also advertised through the same advertisement and had joined the said post on 06.03.2019 and subsequently, the candidates from the waiting list of the post of male

Constable (GD) were offered appointments and vide letter dated

03.03.2023, present petitioner along with other persons in the waiting list was offered appointment and thereafter, the petitioner applied for technical resignation from IRB and subsequently, his resignation was accepted and the petitioner was relieved from the post of Constable in IRB vide order dated 14.06.2023 and the petitioner joined as male Constable (GD) and was issued certificate of appointment on 19.06.2023. 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. The petitioner approached this Court by filing CWP-14692-2023 and this Court vide order dated 14.07.2023 disposed of the same by directing the respondent-authority to consider the request of the petitioner, as expeditiously as possible. 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-14692-2023 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 consider 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 14.07.2023 in CWP No. 14692 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 Course IRB constable in Recruit Basic Course (RBC) conducted as 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)(ii) 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 Ravinder Kumar No. 3/207 HAP (petitioner) in his representation dated 24.07.2023, 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. Learned State counsel, on the other hand, has opposed the

present petition and has submitted that the impugned order has been passed in accordance with law and after taking into consideration the relevant factors. It is further submitted that the reliance on the judgment of the Coordinate Bench of this Court in CWP-16315-2022 is completely misconceived inasmuch as the Coordinate Bench had specifically stated in the said judgment that the same should not be treated as a precedent and in case, this Court was to grant the same relief as was granted to the petitioners therein on the basis of the judgment of the Coordinate Bench, then the same would be treated as a precedent and would have to be followed in other cases, which would lead to multiplicity of litigation and would also lead to non-compliance of the rules and regulations, which govern the services of the petitioner. It is further submitted that the facts of the said case are completely different from the facts of the present case inasmuch as in the above said writ petition, the petitioners therein as per their case were not given the requisite marks under the socio-economic category and it is only when they had filed writ petitions then subsequently orders were passed in their favour and they were found to be entitled to the additional marks by the Commission, on account of which they were recommended for being appointed as Male Constable (GD) and it is in the said background, the relief was granted to the petitioners therein. The relevant part of the said judgment is reproduced hereasunder:-

*“I have heard learned counsel for the parties and have also perused pleadings of the case. The facts are not in dispute. Petitioners came to be appointed in Indian Reserve Battalion, Haryana pursuant to a selection process. They were not given the benefit of additional marks at the appropriate time, which would have brought them within the zone of consideration for appointment as Male Constable (General Duty) under Category No.1. It is only when they approached this Court, a direction was given to the Commission to look into their case and if found entitled to additional marks, appointment letters be issued to them. It is also admitted*

fact that during the time they were serving in the Indian Reserve Battalion, Haryana, they underwent Basic Training Course-1 i.e. Batch No.86 along with persons, who had been recruited in the same advertisement as Constables (General Duty) Male & Female.”

It is further submitted that there is a complete difference in the nature of duties between the two cadres as has been detailed in paragraph 5 of the impugned order. It is argued that as has been noticed in paragraph 7 of the impugned order, during the training, the trainees live with their counterparts and form a group which is helpful for them throughout their service as they develop camaraderie and bond with batchmates of General Duty Constables and the said plea as well as the plea to the effect that there is difference of 3 years and 9 months in the present petitioner having completed his basic training course as IRB Constable and now, were neither raised nor considered by the coordinate Bench. It is submitted that another reason given in the impugned order is to the effect that in case the exemption is granted to the petitioner dehors the rules then it would open a pandora's box as the employees after completing training course in one cadre would start claiming exemption from undergoing the said course in different cadres and the same would lead to unnecessary complication, legal issues, litigation and would not be good for the discipline of the employees. It is submitted that as per the rules, no exemption is provided from undergoing the basic training course after being appointed as Male Constable (GD) and since the petitioner has now chosen to accept the appointment of Male Constable (GD) he must comply with all the necessary requirements as prescribed in the rules which includes the training in question. It is further submitted that the training course is for a period of 9 months and the petitioner has already undergone approximately 2 months of

training even as per his own stand and thus, is estopped from pursuing the present writ petition and at any rate, the said training would make the petitioner more skillful and no loss would be caused to the petitioner. It is further submitted by the learned State counsel that the respondent-State had chosen to implement the said judgment in CWP-16315-2022 as it was specifically stated in the said judgment that the same is not to be taken as a precedent and was being passed in the peculiar facts and circumstances of the said case and thus, no LPA was filed against the said judgment.

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

6. 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 batchmates of 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.

7. 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 facts of the said case are not pari materia with the facts of the present case, inasmuch as the petitioners in the above said writ

petition were not appointed as Male Constable (GD) on account of the fact that the marks with respect to 'socio-economic category' to which they were entitled were not given to the petitioners therein and it is only after they approached this Court by filing two separate writ petitions seeking additional marks and orders were passed to consider the case of the petitioners therein by passing a speaking order that the authorities realised their mistake and gave additional marks to the said petitioners and thus, from the said facts it is apparent that the authorities were at fault in not appointing the petitioners therein to the post of Male Constable (GD) in the first instance itself and the petitioners therein were in the meantime appointed to the India Reserve Battalions and had undergone the recruit basic training course and it was in the said background that it was observed that they should not be made to undergo the said course again after having been appointed as Constable (GD), after having been given additional marks which should have been given to them in the first instance and that the judgment of the Court should not be treated as a precedent and no direction was given to the effect that the said judgment would apply to the complete batch of 86. The case of the petitioner, on the other hand, is on a different footing inasmuch as the department cannot be stated to be at any fault in the petitioner having been first appointed as Male Constable IRB and thereafter being appointed as Male Constable (GD) as the petitioner was initially shown in the waiting list of Male Constable (GD) and had chosen to be appointed as Male Constable IRB on his own accord and thereafter, the petitioner who was there in the waiting list of Male Constable (GD) was fortunate to get the appointment as Male

Constable (GD).

iii) The reasons as stated in para 7 (ii) and (iii) of the impugned order have neither been raised nor considered by the coordinate Bench.

iv) 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.

v) The fact that the judgment of the Coordinate Bench has been implemented by the State would also not benefit the petitioner inasmuch as since the said judgment stated that it was not to be treated as a precedent and was allowed in the peculiar facts and circumstances of the case, thus, as per the stand of the State of Haryana they had chosen to implement the same instead of contesting it further.

8. 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 03, 2023.  
*Davinder Kumar*

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|-----------------------------|--------|
| Whether speaking / reasoned | Yes/No |
| Whether reportable          | Yes/No |