

CWP-26710-2019 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-26710-2019 (O&M)
Date of Decision: 10.01.2024

Bhupinder Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. G.S. Bal, Senior Advocate with
Mr. D.S. Gill, Advocate and
Mr. Laxman Choudhary, Advocate for the petitioners
Mr. Aman Dhir, DAG, Punjab

JAGMOHAN BANSAL, J. (Oral)

1. Reply by way of affidavit dated 10.01.2024 of Naresh Kumar Dogra, P.P.S., Assistant Inspector General of Police, PAP office of Additional Director General of Police, State Armed Police, Punjab, Jalandhar filed on behalf of respondent Nos.1 to 3 in CM-9962-CWP-2023 is taken on record. Registry is directed to tag the same at appropriate place.

2. Reply by way of short affidavit dated 10.01.2024 of Suba Singh, P.P.S., Assistant Inspector General of Police, PAP office of Additional Director General of Police, State Armed Police, Punjab Jalandhar filed on behalf of respondent Nos.1 to 3 in CM-20606-CWP-2023 is taken on record. Registry is directed to tag the same at appropriate place.

3. The petitioners through instant petition under Articles 226/227 of Constitution of India are seeking setting aside of order dated 09.04.2019 (Annexure P-19) whereby their claim for promotion w.e.f. 05.12.2003 has been declined.

4. From the perusal of record, it comes out that petitioners belong to sportsmen category. The respondent promoted various police officials who were appointed against post for sportsmen. The promotion of the officials belonging to sportsman category was made in excess of 10% quota. This Court in *Swaran Singh v. State of Punjab, CWP No. 13788 of 1997* ordered to revert all the police officials who were promoted in excess of 10% quota. The respondent-State instead of reverting the police officials issued different notifications and in 2006 came out with a policy concluding that all the reverted officials would hold same posts w.e.f. 05.12.2003 as they were holding prior to reversion either on adhoc or regular basis. 7 officers (sportsmen) submitted their representation in 2008 claiming that they have been wrongly appointed on the post of Head Constable or ASI whereas they should be appointed on the post of ASI or SI respectively. The respondent accepted claim of the officials, however, 02 persons were not extended benefit because at that point of time, 5 posts were lying vacant. The DGP, Punjab vide communication dated 15.09.2009 requested the State Government to create 02 posts of Sub Inspectors for the sportsmen who could not be promoted out of aforesaid 7 persons. There was further representation of 04 persons claiming the same benefit. CWP No.10060 of 2011 came to be filed by aforesaid 04 persons claiming promotion w.e.f. 05.12.2003. This Court

vide order dated 21.02.2013 upheld the claim of aforesaid 04 persons. The State filed LPA before a Division Bench of this Court which came to be dismissed. Under these circumstances, the respondent promoted 04 persons w.e.f. 05.12.2003 though at the time of reversion they were not holding promotional post on adhoc or regular basis. This promotion gave impetus to other officials to make representation seeking promotion w.e.f. 05.12.2003. In two lots, 31 police officials made representations claiming parity with the 04 aforesaid officials. The respondent extended benefit of promotion to 31 police officials w.e.f. 05.12.2003.

5. The petitioners, in the line of others, made representation which was followed by CWP No.14041 of 2018 before this Court. The said writ petition came to be disposed of vide order dated 30.05.2018. This Court directed the respondents to consider claim of the petitioners therein and pass a speaking order. The respondent constituted different committees which submitted their reports. On the basis of reports received from different quarters, the impugned order came to be passed by Additional Chief Secretary, Punjab. The respondent in the impugned order has noted that promotion to 04 officials was granted on account of order passed by this Court whereas they were neither holding promotional post on adhoc or regular basis which has led to confusion and multiple litigation.

6. The claim of the petitioner is that 25 officials who were juniors to the petitioners have been promoted and claim of the petitioners has been arbitrarily and wrongly rejected.

7. Mr. Aman Dhir, learned State counsel on instructions submits that petitioners were working as Sub-Inspectors during 1997-98 and 10 officials pointed out by petitioners were working as Sub-Inspectors since 1994-95, thus, those ten officials were seniors to the petitioners. The 21 officials pointed out by petitioners were working as Assistant Sub-Inspectors during 1997-98 as well as on 05.12.2003, however, on account of recasting of seniority and creation of ex-cadre, the aforesaid 21 officials were designated as Sub-Inspectors w.e.f. 05.12.2003. In this way, the petitioners merged with the aforesaid 21 officials. A joint seniority list of these officials was prepared and it was based upon date of birth. Few petitioners became seniors to aforesaid 21 officials and few became juniors. The State on account of order passed by this Court in CWP No.10060 of 2011 as well as order dated 21.02.2013 passed by Division Bench in LPA had promoted four officials as Inspectors w.e.f. 05.12.2003. Those officials were not entitled to promotion, however, on account of orders of this Court, the State became bound to promote them.

8. I have heard the arguments of learned counsels for the parties and perused the record with their able assistance.

9. It is undisputed fact that aforesaid 21 officials during 1997-98 were posted as Assistant Sub-Inspectors and petitioners were posted as Sub-Inspectors. The aforesaid 10 officials were posted as Sub-Inspectors during 1994-95 and they were designated as Inspectors w.e.f. 05.12.2003 on the sole ground that had they not been reverted in view of the judgment of this Court in *Swaran Singh (supra)*, they would have been Inspectors on 05.12.2003

because they had completed 8 years service on the said date as Sub-Inspectors. The aforesaid 21 officials were Assistant Sub-Inspectors during 1997-98 and they were holding the same post on 05.12.2003. On account of reversion, they were supposed to be reverted to the post of Head Constables whereas their designation was secured by way of instructions issued by the State Government. Considering their representation and ignoring judgment of this Court in *Swaran Singh (supra)*, instead of reverting them, they were promoted as Sub-Inspectors w.e.f. 05.12.2003. In this way, the respondent has extended benefit of promotion to the post of Inspectors from the post of Sub-Inspectors to aforesaid 36 officials. Concededly, there are many officials who were 8-10 years junior to the petitioners who have been promoted prior to petitioners. The petitioners have completed requisite number of years service as well as undergone requisite courses, thus, they were entitled to promotion to the post of Inspector, on completion of 8 years service as Sub-Inspectors like all other officials who have been promoted on the sole ground that had they not been reverted, they were entitled to promotion from the post of Assistant Sub-Inspectors to Sub-Inspectors and Sub-Inspectors to Inspectors. The act of respondent is apparently arbitrary and discriminatory in nature. The State has no right to promote 10 years' juniors prior to their seniors. The promotion of juniors always creates resentment and humiliation.

The petitioners in terms of judgment of this Court in CWP No.10060 of 2011 & LPA No.1887 of 2013 are entitled to promotion. Claim of the respondents that four officers were wrongly promoted due to High Court judgment is totally baseless and misplaced.

10. In view of aforesaid discussion and findings, this Court is of the considered opinion that the present petition deserves to be allowed and accordingly allowed. Order dated 09.04.2019 (Annexure P-19) is hereby quashed. Respondents are directed to reconsider case of the petitioners within 6 months from today.

Pending applications(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

10.01.2024
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>