



LPA-1323 and 1699-2018

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1. LPA-1323-2018

Kuldeep ChandAppellant

vs.

State of Punjab and othersRespondents

2. LPA- 1699-2018

Head Constable Narinder SinghAppellant

vs.

State of Punjab and othersRespondents

Reserved on 09.09.2024

Pronounced on: September 23, 2024

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMAPresent: Dr. Anmol Ratan Sidhu, Sr. Advocate, assisted by
Mr. Shiv Kumar Sharma, Advocate
and Mr. Gurpreet Singh, Advocate
for the appellant LPA No. 1323-2018Mr.K.G. Chaudhary, Advocate
For the appellant in LPA No. 1699-2018

Mr. Maninder Singh, Sr. DAG, Punjab

SUDEEPTI SHARMA J.

1. This order shall dispose of the above two Letters Patent Appeals filed under Clause-X of the Letters Patent Act, whereby challenge is to the judgment dated 09.09.2015 passed by the learned Single Judge as well as to the order 19.04.2018 dated passed in the review application (s), vide which the prayer of the appellants seeking setting aside of their reversion order (s) to the post of Constable (s) without any notice (s), was ***declined***.

**BRIEF FACTS OF THE CASE**

2. Brief facts of the case are that the appellant/petitioner Kuldeep Chand was appointed as Constable on 11.05.1982 at District Police, Patiala and his name was entered to Promotion List CII (Exemptee) by the Competent Authority on 18.05.2001. He was promoted as Head Constable (out of turn), vide order dated 28.01.2005

3. In the other appeal (LPA No. 1699-2018), filed by Narinder Singh, it has been stated that he was appointed as Constable on 06.09.1991 and his name was approved for promotion List C-II on 26.05.1998 and he was promoted as Head Constable on Adhoc Basis on 26.05.1998.

4. However, in compliance of the order dated 21.04.1998 passed by this Court in ***CWP No. 13788-1997 titled as SI Swaran Singh vs. State of Punjab*** and the directions issued by DGP, Punjab, vide order dated 16.03.2007, the appellants who were in excess of 10 per cent quota, were reverted, vide order dated 29.02.2008 (Kuldeep Chand) and 20.08.2007 (Narinder Singh). These orders were challenged by way of filing Civil Writ Petitions and the same were dismissed, vide impugned judgment. Further the review application (s) filed in the aforesaid writ petitions, were also dismissed.

SUBMISSIONS OF THE COUNSELS FOR THE PARTIES

5. Learned counsel for the appellant (s) contends that the writ petitions filed by them, have wrongly been dismissed by the learned Single Judge, as the learned Single Judge has failed to appreciate that the appellants

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were promoted to the rank of Head Constable by the Competent Authority in accordance with the Rules.

6. He further contends that the appellant (s) could not be reverted since their promotion to the rank of Head Constable was within the prescribed quota.

7. Per contra, learned State counsel argues on the lines of the judgment dated 09.09.2015 passed by the learned Single Judge and contends that the appellants have rightly been reverted, as they were in excess of 10 per cent quota.

8. We have heard learned counsel for the parties and perused the whole record of the case.

9. Before proceeding further, it is necessary to reproduce the relevant portion of the impugned judgment dated 09.09.2015:-

“As per Punjab Police Rule 13.8(2), 10% of the posts in a cadre of Head Constable can be filled from amongst constables, who are otherwise considered suitable with the approval of DIG and were to be brought on list C-II and were exempted from passing the Lower School Course, which is the eligibility criteria.

The petitioners claimed that due to their outstanding service record, they were brought to list C-II and they were no more than 10% of the total cadre strength of the Head Constables. Therefore, the order of reversion was wrong. They were liable to be confirmed after successful completion of probation period of two years on the post of Head Constable.



In the written statement filed by the respondents, the plea taken is that the promotions were in excess of 10% quota of List C-II and accordingly, reversion's were made. Candidates belonging to the List C-I filed writ petition bearing CWP No.15684 of 1996 in this Court that they had passed the Lower School Course and were entitled to the promotion to the post of Head Constable. Affidavit was filed that instructions had been issued to Senior Superintendent of Police, Patiala to revert those Head Constables who had been promoted in excess of 10% quota of List C-II. The said writ petition thereafter was disposed of as having rendered infructuous with liberty to the Head Constables who might have been reverted to challenge their reversion order before an appropriate forum. Similarly, situated constables, being in excess of List C-II quota filed CWP Nos.13788, 13789 and 13790 of 1990 in this Court claiming their ad hoc/ORP ranks. The said writ petitions were disposed of with following directions:

- “i. Constables on list C-II upto 10% (and no more) of the cadre strength of Head Constables can be promoted at any given time.*
- ii. That the constables on list C-II to the aforesaid extent have to be promoted strictly in accordance with the dates they are brought on List C-II.*
- iii. There would be no bar for a person on List C-I who happens to be a sportsman to be brought on list C-II, of course, subject to the approval of the DIG, but his date on list C-II will be the date*



on which he is brought on the said list and may be promoted as a HC in accordance with the date he is brought on list C-II.

iv. There is no special quota of 5% for sportsmen in List C-II
Rule 13.8(2 envisages filling of 10% posts of the cadre of Head Constables from amongst which would include sports. While carrying out the aforesaid directions persons may be reverted, if necessary, from the post of Head Constable to Constable strictly in order of their having been brought on list C-II but such Head Constables from list C-II would be more than 10% of the total cadre strength of the Head Constables. Those Head Constables who are within 10% quota from list C-II and have further been promoted to a higher rank on officiating or ad hoc basis would hold lien on the substantive posts of the Head Constables. Such posts may be temporarily filled by promoting constables from list C-II strictly in accordance with the dates of there being brought on list C-II but if any of the Head Constables who is holding higher post on officiating basis is reverted to the post of Head Constable (who had been promoted from list C-II) then such an incumbent who is temporarily promoted as head constable will have to make room for such a reverttee in accordance with his seniority.”

It is, thus, submitted that in view of the above directions, the cadre strength had been maintained upto 10% quota from List C-II and the reversion had been done to comply with the orders passed by this Court. It is thus, apparent that the



right of the petitioners could only be to the extent of the entitlement of the Rule and could not be over and above the 10% of quota strength. Once the reversion has been justified on the said ground having been made beyond 10% quota and taking that in account, no fault cannot be found in the order. Admittedly, petitioners were given show cause notice and they also filed their replies. In the replication filed also, it is not demonstrated in any manner as to whether the petitioners were within the 10% quota/ permissible limit.

In such circumstances, the orders passed by respondent No.4 while complying with the directions of this Court, cannot be faulted.

Accordingly, the writ petitions stand dismissed.”

10. Reference at this stage can also be made to the order dated 19.04.2018 passed in the review application. The relevant portion of the order reads as under:-

“RA-235-2016

The applications for review of order dated 09.09.2015 have been filed. The order was passed in the presence of the counsel Mr.K.G.Chaudhary and it was noticed that the reversion order was on account of the fact that the promotion was in excess of 10% of the quota strength. It was also noticed that in the replication filed, it was not demonstrated in any manner as to whether the petitioner was under 10% quota of the permissible limit.

The perusal of the impugned order of reversion dated 29.02.2008 in CWP 3280 of 2008 in which Review Application 461



have been filed would also go on to show that while passing the reversion order, the reply filed by the petitioners was noticed by the concerned authorities, who had taken into account the same while rejecting their case. The perusal of the reply would also go on to show (Annexure P-12) that no such details of numbers have been given and how the promotion was given in the prescribed quota and in such circumstances the argument which is now sought to be raised is without any basis that the promotion was in the prescribed quota. While filing the present review petition effort have been made to re-argue the case again which is not within the preview of the review jurisdiction. Resultantly, no case is made out for recalling to order dated 09.09.2015.

It is further pertinent to notice that six writ petitions were disposed of and the review applications have only been filed by the petitioners in two writ petitions and no efforts have been made by the other four writ petitioners to contest. It is also pertinent to notice that review petitioner in CWP No.14102 of 2007 Narinder Singh had also approached the Division Bench by filing LPA-1839 of 2017 and the same was withdrawn on account of the fact that notice had been issued in the connected review application.

In such circumstances no case is made out for review of the order dated 09.09.2015 and the Review Applications are dismissed.”

11. A bare perusal of the impugned judgment as well as order passed in review application (s) shows that admittedly the appellants/petitioners are

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in excess of 10% quota of List CII, as prescribed in Rule 13.8 (A) (2) of the Punjab Police Rules, 1934

12. A perusal of the record further reveals that both appellants, Kuldeep Chand and HC Narinder Singh, were reverted by orders dated 29.02.2008 and 20.08.2007, respectively, as they exceeded the 10% quota. Their reversion was in compliance with the order dated 21.04.1998, passed in CWP No. 13788-1997, and the directions issued by the DGP, Punjab, Chandigarh, through an order dated 16.03.2007.

13. Since, as per Rule 13.8 (A) (2) of the Punjab Police Rules, 1934, 10 per cent quota in the cadre of Head Constable, are to be filled from amongst the Constables, who are otherwise considered suitable with the approval of DIG, and are to be brought by List-CII and were exempted from the Lower School Course, which is the eligibility criteria and cadre strength was to be maintained of 10% quota from List C-II, therefore, the reversion was done rightly, in compliance of order dated 21.04.1998 passed in CWP No. 13788-1997.

14. Since the appellants/petitioners were in excess of 10 per cent quota as prescribed under the Rules, therefore, we do not find any infirmity in the impugned judgment dated 09.09.2015 as well as order dated 19.04.2018 passed in the review applications, by the learned Single and the same are upheld.

15. Accordingly, the present appeals are ***dismissed***.

16. All the pending applications, if any, also stand disposed of.



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(SURESHWAR THAKUR)
JUDGE

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(SUDEEPTI SHARMA)
JUDGE

September 23 , 2024
G Arora

Whether speaking/reasoned : Yes
Whether reportable : Yes