

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

118

CWP-28605-2023

Date of decision: 22.02.2024

GURNAM SINGH AND OTHERS

...PETITIONERS

Vs.

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Ms. Khushika Setia, Advocate for
Mr. S.S. Sarwara, Advocate
for the petitioners.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 20.02.2023 (Annexure P-4) whereby their claim for promotion has been rejected.

2. The petitioners are retired officials of Punjab Police. The petitioners joined Punjab Police as Constables. There are 4 cadres within Punjab Police i.e. District Cadre, Punjab Armed Police (PAP), Intelligence Wing, Technical and Support Staff. The petitioners till 2008 formed part of Punjab Armed Police Cadre. They, as per revised seniority list, came to be promoted w.e.f. October' 1992 from the post of Constables to Head Constables. At that point of time, they were asked to submit their option either to remain in PAP or switch to District Police Cadre. The petitioners submitted option form wherein they opted for District Police Cadre. The grievance of the petitioners erupted on account of promotion of their juniors who were forming part of PAP cadre. The petitioners,

at this belated stage, are claiming that they should be treated as part of PAP Cadre and should be promoted from the date their juniors have been promoted.

3. Ms. Khushika Setia, Advocate submits that option submitted by petitioners was not as per requirement of law and there are technical defects in the option form, thus, option forms filed by the petitioners could not be relied upon. The respondent did not make wide publicity of bifurcation of cadre and its consequences.

4. Per contra, Mr. Aman Dhir, DAG, Punjab submits that petitioners filed option form in 2018 and they were promoted w.e.f. 1992 from the post of Constables to Head Constables. They agreed to fix their seniority and further grant promotion in District Cadre w.e.f. 20.02.2008. The petitioners, at this stage, cannot turn around.

5. I have heard the arguments of learned counsel for the parties and perused the record.

6. This is second round of litigation. The petitioners, on the earlier occasion, filed CWP-27998-2022 seeking directions to respondents to decide their representation. Pursuant to directions of this Court, the respondent had passed impugned order dated 20.02.2023 wherein claim of the petitioners have been considered and rejected on the ground that petitioners at their own wish opted for District Cadre and at this stage cannot be permitted to claim seniority and promotion on the basis of their juniors working in PAP Cadre. The relevant extracts of impugned order read as:-

That the cases of the petitioners have been thoroughly examined in this office. As such, it is contented that the process of preparing a joint seniority list of the two categories (District Police and Armed Police) from the rank of Head Constable to Inspector upto 20.02.2008 i.e, till the

date of the enactment of the Punjab Police Act, 2007 and the process of preparing a separate seniority list of the officials of the separate cadres namely District Police Cadre and Armed Police Cadre w.e.f. 20.02.2008, after allocation of separate cadres to these officers, have been completed by respondents in compliance of the directives issued by this Hon'ble Court in the judgment dated 16.12.2014 passed in the case of "SI. Pardeep Singh & Ors. Vs. State of Punjab & Ors." in CWP No. 4829 of 2011. The seniority was prepared from 1975 as per date of List C-I/ Lower School Course merit. In compliance with Hon'ble High Court orders, joint final seniority list of Head Constables upto 20.02.2008 was circulated vide this office memo No. 12108-12208/E-1(5) dated 10.11.2017. Thereafter, as per Hon'ble High Court order options were called from the officials as to whether they want to opt for District Police Cadre or in Armed Police Cadre. The petitioners had given their options for District Cadre which were received through SSP/SAS Nagar vide memo No. 7860/S/CRC dated 15.06.2018 and memo No. 8148/S/CRC dated 20.06.2018. Accordingly as per options given by them in the rank of Head Constable they were granted seniority in District Cadre. Thereafter, vide this office memo No. 14078-14178/E-1(2) dated 30.10.2018 the petitioners were assigned seniority/promotion in the rank of ASI in District Cadre.

x x x x

4. That it is contended that the petitioners at the time of distribution of cadres as on 20.02.2008, had submitted their options for Distt. Police cadre, as such, now they cannot claim seniority/promotion at par with the officials of Armed Cadre.

5. Accordingly, the petitioners now ex officials namely Gurnam Singh No. 91/SAS Nagar, ASI Didar Singh No. 59/SAS Nigar, ASI Sulekh Chand No. 311/GRP, ASI Narinder

Singh No. 717/SAS Nagar, ASI Surinder Singh No. 370/SAS Nagar and ASI Raghbir Singh No. 398/SAS Nagar are not eligible for promotion to the rank of Sub- Inspector due to reasons that the petitioners had retired prior to the date of promotion. As such, claim of the petitioners Gurnam Singh No. 91/SAS Nagar and these afore mentioned other 5 officials for promotion to the rank of Inspector is hereby rejected being devoid of merits.

7. From the perusal of afore-cited impugned order as well as option forms produced by respondent, it is evident that petitioners at their own opted for District Cadre. The petitioners joined Punjab Police as Constables and they were promoted as Head Constables as per revised seniority list. The petitioners had option either to remain in PAP or switch to District Police Cadre. By Punjab Police Act, 2007, 4 cadres have been carved out and it has been provided that officers of one cadre would not be transferred to another Cadre. The seniority and promotion of all the officers is maintained in their own Cadre. There was no compulsion to opt for District Cadre still they opted for District Cadre. They till their retirement worked in District Cadre and are raising grouse after their retirement which indicates that they want to take somersault. It is not a case of the petitioners that despite filing option form, they worked with PAP whereas it is conceded that they worked with District Cadre. The option was filed by the petitioners and it was duly signed. The petitioners were police officers and cannot be expected to claim that they were unaware about options and their consequences. The filing of option itself makes the things absolute unless and until the said option is withdrawn. There is nothing on record that the petitioners had withdrawn their option rather it is conceded fact that they worked till their retirement with District Police Cadre. It is apt to notice that vide memo dated

30.10.2018, they were assigned seniority/promotion in the rank of ASI in District Cadre.

8. In the wake of facts and findings, this Court is of the opinion that present petition sans merit and deserves to be dismissed and accordingly dismissed.

22.02.2024
anju

Whether speaking/reasoned

Whether reportable

Yes

Yes

[JAGMOHAN BANSAL]

JUDGE