



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

113

CWP-1884-2025

Date of Decision: 24.01.2025

Bhagwant Singh and others

.....Petitioner(s)

Versus

State of Punjab and others

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Nitesh Singla, Advocate,
for the petitioners.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners through instant petition under Article 226 of the Constitution of India are seeking setting aside of order dated 23.04.2024 (Annexure P-16) whereby respondent has rejected their claim to count the previous service for the purpose of seniority.

2. The respondent has passed the impugned order in compliance of order dated 07.12.2023 passed by this Court in ***CWP-27550-2023, Suchwinder Pal and others vs. State of Punjab and others.*** The relevant extracts of impugned order dated 23.04.2024 are reproduced as below:-

“12. The present petitioners mentioned at serial No. 05, 06 to 08, 26, 37, 39, 40, 46, 49, 51, 53, 55, 56, 61, 64, 65, 69, 71, 74, 75, 77 to 79, 83, 84, 86, 100, 101, 104, 105 and 112 passed the suitability test in the year-1997. However, they were not granted deemed date of enlistment as constable (Notional Pay Fixation) because as per information



supplied by the concerned Senior Superintendents of Police, no SPO junior to the petitioners was enlisted as constable on out of turn basis in their respective Districts.

The petitioners mentioned at serial No. 29, 32, 52, 72 and 93 passed the suitability test in the year-2000. The petitioners mentioned at serial No. 01 to 04, 09 to 19, 21 to 25, 27, 28, 30, 31, 33, 34, 36, 41 to 43, 47, 48, 50, 54, 58, 59, 62, 63, 66 to 68, 70, 73, 76, 80, 82, 85, 87, 89, 90, 95 to 97, 102, 103, 106, 108 and 109 to 111 passed the suitability test in the year-2002. The petitioners, mentioned at serial No. 20, 35, 44, 57, 88, 92 and 107 passed the suitability test in the year-2004. The SPO's who passed the suitability test after 1997 with reduced standards, were not granted the benefits of notional pay fixation from deemed date. The decision of the department in this regard was in consonance with the directions issued by the Hon'ble Punjab and Haryana High Court vide order dated 12.12.1996 in CWP No.7451 of 1996, as mentioned above and directions issued by the Director General of Police, Punjab vide office memo No.16318-40/E-3 dated 02.07.1999 and 6087/LA-2 dated 24.07. 2000.

The petitioners mentioned at serial No. 38, 81, 98 and 99 were enlisted as Constable in Band Staff and Serial No. 91 and 94 were Constable as special case. Thus, their cases are not comparable.

The petitioner mentioned at Sr. No.45 was selected for absorption as constable in suitability test of June-1993, The petitioner is staking his claim after the lapse of more than 28 years. Therefore, his claim is not acceptable at this stage, being time barred.

The petitioner mentioned at Sr. No.60 had already been granted deemed date of seniority w.e.f 24.02.1994 on the recommendation of Senior Superintendent of Police, Sri



Fatehgarh Sahib vide this office order No. 44349/OASI dated 23.09.2000.

13. It is further submitted that vide order dated 31.08.2010 passed in CWP No.2371 of 2010 titled as Harbans Lal & others, petitioners were granted relief of daily wage service towards qualifying period for pension purpose only. They were not given benefit of seniority of ad-hoc/daily wage service by the Hon'ble High Court. Therefore, as far as claim of pension is concerned, directions have been issued vide this office letter No.4247/Litigation Cell dated 01.02.2024 to the concerned Battalion Commandant to decide the claim of the present petitioners in term of the judgment passed in Halbans Lal's case by passing a speaking orders in compliance of order dated 29.11.2022 passed by Hon'ble High Court.

14. The petitioners of CWP No.5648 of 2017 titled as HC/PR Sukhmander Singh No.457/SMS Nagar and others versus State of Punjab and others were found suitable for the post of constables in the suitability test year 1997. They claimed for deemed date of seniority against the junior SPOs of District Faridkot. However, at the time of consideration for enlistment as Constable in the year-1997, they were working as SPO in District Moga. Therefore, their claim was rejected. As per record, they had been initially appointed as SPO in District Faridkot on 01.08.1991 and were subsequently transferred to District Moga which came into existence in November, 1995. The Hon'ble Punjab and Haryana High Court held that the petitioners were entitled for grant of deemed date of absorption as Constable from the date SPO junior to them in District Faridkot as on 27.08.1993 had been absorbed. In compliance of orders passed by the Hon'ble High Court the petitioners were granted deemed date as Constable from the



date from which their junior was so appointed as Constable on out of turn in District Police, Faridkot.

The present petitioners had not been enlisted in District Faridkot excepting some of them. However, none of them were transferred to District Police, Moga. The seniority of SPOs was maintained District-wise and SPO of one District had no claim against the seniority of the SPOs of other District. This view is in consonance with the order dated 12.12.1996 of Hon'ble Punjab and Haryana High Court, passed in CWP No.7451 of 1996 titled as SPO Lal Mohammad and others versus Punjab State.

In view of the facts mentioned hereinbefore, the case of Sukhmandar Singh is totally on different footing. Apart from above, it is clear that the petitioners are staking the claim of deemed date of seniority after a lapse of about 22 years, which is badly time barred. The full bench of Hon'ble Supreme Court of India, in the Civil Appeal No. 4772 of 1989 State versus Constable Ashok Kumar, No. 585/GRP has held that "limitation for filing Civil case is three years and the cases filed beyond three years are time barred." In the light of this judgment, the claim of the petitioners is also time barred."

3. The respondent has rejected claim of petitioner on merits as well as limitation.
4. Mr. Nitesh Singla, learned counsel for the petitioners submits that respondent has wrongly rejected their claim. The respondent prior to 1997 assigned constabulary number to various SPOs ignoring seniority and merely on the basis of their performance. The respondent granted constabulary number to petitioners during 1997 to 2004 after conducting suitability test. They were also eligible for grant of constabulary number without conducting suitability test.



juniors got constabulary number prior to them and they are shown as senior in the seniority list of Constables. The service rendered by them as SPOs should be counted for the purpose of seniority.

5. Mr. Aman Dhir, DAG, Punjab submits that petitioners accepted constabulary number during 1997 to 2004 without demur. If seniority list is disturbed at this stage, it would drastically affect many Constables. It is a settled proposition of law that seniority list cannot be challenged after the expiry of many years especially when status of many persons have changed. The petitioners were granted constabulary number in terms of judgment of this Court. Thus, there was no infirmity in the action of the respondent. The claim of petitioners has been rightly rejected.

6. I have heard the arguments and perused the record.

7. The State Government as per Section 17 of Punjab Police Act, 1861 (for short, '1861 Act') has power to appoint SPOs. The respondent assigned constabulary number to various SPOs on the basis of their service especially participation in antiterrorist front. On account of appointment of juniors as Constables, many SPOs approached this Court by way of civil writ petitions. CWP No.7451 of 1996 titled as "Lal Mohammad vs. State of Punjab and others" came to be adjudicated vide judgment dated 12.12.1996. A Division Bench of this Court formed an opinion that respondent should consider claim of petitioners for absorption as Constables with effect from the date of their juniors have been appointed. The relevant extracts of the judgment are reproduced as below :

"We dispose of this petition with a direction to the respective Senior Superintendent of Police to consider the claim of the petitioners for absorption as Constables with



effect from the date their juniors have been so appointed. In case the petitioners are found suitable, orders of their appointment be issued. Consequential reliefs regarding fixation of pay and seniority shall follow. Keeping in view the large number of SPOs/Auxiliary Constables involved in these cases, we will not order payment of arrears of salary to avoid unnecessary burden on the State Government at this stage. Directions issued above be carried out within six months from the receipt/production of a certified copy of this order.”

8. Pursuant to aforesaid judgment, the respondent considered 16,000 SPOs for absorption as Constables. 4647 SPOs were found suitable and came to be selected as Constables in the year 1997. Few petitioners herein were not found suitable as they failed to clear suitability test. The respondent time to time with relaxed conditions and considered case of various SPOs who could not clear minimum eligibility test in 1997 and subsequent years. The petitioners cleared eligibility test during 1997-2004 and respondent thereafter assigned constabulary number to them.

9. The respondent filed review application No. 711 of 1999 in CWP No.7883 of 1999. A Division Bench of this Court while disposing of CWP No.7883 of 1999 had opined that if a person makes the grade, he would be deemed to have been notionally appointed on the day when his immediate junior was appointed because of the previous selection. The respondent sought modification of the said observation. The review application came up for consideration on 04.08.2000. The Court clarified its earlier order. The order dated 04.08.2000 is reproduced as below :

“This order will dispose of R.A. No. 711 of 1999 in

CWP 7883 of 1999 and R. A. No. 710 of 1999 in CWP 8112



of 1999.

Vide our judgment, dated September 09, 1999, rendered in CWP No. 7883 of 1999, we had also disposed of CWP No. 8112 of 1999. We had observed that the petitioners, who were earlier not found fit regarding physical standards etc. for absorption from the post of S.P.O. to the post of Constable may be given one more chance to show their physical fitness and also undergo physical aptitude tests etc. Further it was mentioned in the judgment as under:-

"It may further be added here that if such a person makes the grade, he would be deemed to have been notionally appointed on the day when his immediate junior was appointed because of the previous selection(s)...."

This review application has been filed on behalf of the official respondents that the aforesaid observations/directions may be deleted as these will create an anomalous situation inasmuch as the persons who were already selected when the petitioners were rejected would become junior if now the petitioners are found fit for absorption and the date of absorption is to date back to the date of their earlier rejection as per aforesaid directions. It may further be mentioned that in the earlier part of the judgment we had also observed as under:-

"If such a person does make the grade for a constable, he will be kept being absorbed as a below the last candidate who is already on the waiting list."

According to us, the portion of the judgment mentioned earlier, which the applicant wants to be deleted, if allowed to stand, would run contrary to the observations, quoted above in the judgment. We do feel that there is some ambiguity. Our intention in the Judgment was that such persons, who might have been rejected on the ground of



physical fitness or physical aptitude test may be given one more chance to get absorbed as a Constable, and it was never our intention that they should also rank senior to the persons, who stood already selected.

In view of the above, we modify our judgment dated September 09, 1999 and delete the following lines from the judgment:-

"It may further be added here that if such a person makes the grade, he would be deemed to have been notionally appointed on the day when his immediate Junior was appointed because of the previous selection(s).....

The application stands disposed of accordingly."

10. The conceded position emerging from the record is that the petitioners were appointed as SPOs during 1992-1994. The respondents in compliance of directions of this Court time to time conducted physical/eligibility test to assign constabulary number to SPOs. Few petitioners at the initial stage could not clear eligibility test, thus, they could not be appointed as Constables. The respondent time to time relaxed eligibility criteria and the petitioners came to be appointed as Constables during 1997-2004.

11. The co-ordinate Bench of this Court in ***CWP-9936-2017, Sukhjeet Singh and others vs. The State of Punjab and others*** noticed that this Court in ***Harbans Lal vs. State of Punjab and others, 2010 SCC OnLine P&H 8181*** as well as ***Kesar Chand vs. State of Punjab, 1998 SCC OnLine P&H 338*** has held that daily wage period shall be counted for the purpose of pension and no other benefit has been extended. Thus, petitioners cannot take benefit of service rendered as SPOs for the purpose of seniority. The relevant paragraphs of order dated 15.02.2018 are reproduced as below:-



“1. Sukhjeet Singh and 13 others have filed present writ petition under Article 226 of the Constitution of India seeking writ of mandamus directing the respondents to count the services rendered by them as Special Police Officers (for short ‘SPO’) as qualifying service for the extension of benefit of pay fixation, proficiencies step up, ACP fixation, seniority and pensionary benefits.

xxx

xxx

xxx

*5. After having scrutinized record of the case and hearing arguments of both the counsels, this Court finds that present petition deserves to be allowed. Division Bench of this Court in the case of **Harbans Lal (supra)** has already laid down the law holding that Daily Wages Service rendered before regularization would be counted as qualifying service for the purpose of pension. In the present case, the petitioners were appointed and all other cited cases, this Court has ordered to count Daily Wage Period for the purpose of pension and no other benefit has been extended, therefore, the period during which petitioners worked as SPO would be counted for the purpose of pension and no other benefit as claimed by petitioners would be admissible to them.*

6. In view of aforesaid finding, the present petition is partly allowed and respondents are directed to count period during which petitioners worked as SPO as qualifying service for the purpose of pension.”

12. In the wake of order dated 15.02.2018 passed by this Court in **Sukhjeet Singh case (supra)**, order dated 04.08.2000 passed in CWP-7833-1999 and considering the fact that petitioners were assigned constabulary number during 1997 to 2004 and they as well as their colleagues might have got further promotion during preceding 20 years, this Court does not find it

appropriate to interfere with the impugned order. Any direction of this Court

2025:PHHC:010844



would disturb seniority list of Constables which was settled 20 years back.

13. Dismissed.

24.01.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	Yes