

**CWP-18931-2022****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP-18931-2022****Reserved on: 13.08.2025****Pronounced on: 19.08.2025****Nivritpal Singh and others****...Petitioners****Versus****State of Punjab and others****...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: - Mr. Gurminder Singh Gill, Senior Advocate with
Mr. J.S. Gill, Advocate,
Mr. R.S. Gill, Advocate and
Mr. K.S. Kharbanda, Advocate for petitioners No.1 to 67

Mr. Gaurav Chopra, Senior Advocate with
Mr. Anurag Chopra, Advocate,
Ms. Seerat Saldi, Advocate,
Ms. Devanshi Sharma, Advocate,
Mr. Vardaan Seth, Advocate,
Ms. Gauri C. Kaushal, Advocate and
Mr. Harmeet Singh, Advocate for petitioners No.68 to 72

Mr. Aman Dhir, Deputy Advocate General, Punjab

Ms. Anu Chatrath, Senior Advocate with
Mr. Nishant Maini, Advocate for respondents No.4 to 29

JAGMOHAN BANSAL, J.

1. The petitioners through instant petition under Article 226 of the Constitution of India are seeking setting aside of order dated 28.03.2017 (Annexure P-6) whereby private respondents have been granted ante-dated promotion. They are further seeking directions to declare them senior to private respondents.

2. The petitioners joined Intelligence Cadre, Punjab Police as Sub-Inspector ('SI') on 29.12.2016. The private respondents joined Intelligence Cadre on 15.12.2011 as Assistant Sub-Inspector ('ASI'). The private respondents completed their one year training on 15.12.2012. They

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were deputed for Upper School Course w.e.f. 22.08.2016. The said course was completed on 15.12.2016. The result of Upper School Course was declared on 23.01.2017. The Departmental Promotion Committee (for short 'DPC') met on 16.03.2017 and proposed to promote private respondents w.e.f. 16.12.2016. The competent authority vide order dated 28.03.2017 promoted all the private respondents w.e.f. 16.12.2016. The respondent vide letter dated 15.02.2019 issued tentative seniority list of SI(s). The petitioners did not figure in the said list and they filed objections which were acceded to by the Committee. The respondent prepared tentative seniority list wherein petitioners were shown senior to private respondents. The private respondents raised objections which were turned down. Nevertheless, in the final seniority list, the private respondents are shown senior to petitioners.

3. Mr. Gurminder Singh Gill and Mr. Gaurav Chopra, Senior Advocates submit that private respondents have been promoted w.e.f. 16.12.2016 in gross violation of Punjab Police Rules, 1934 (for short 'PPR') as well as Punjab Civil Services Rules as applicable to Intelligence Cadre. As per Rule 13.10 of PPR, an ASI could be deputed for Upper School Course upon completing five years' service after training. The private respondents completed five years' service after training in December' 2017, whereas they were deputed for Upper School Course in August' 2016. As per Punjab Civil Services Rules, seniority has to be determined as per length of service. The private respondents for all intents and purposes were promoted on 16.03.2017 i.e. date of meeting of DPC. The promotion cannot take effect prior to date of meeting of DPC and its decision. The petitioners and private respondents are part of Intelligence Cadre. They are governed by Punjab Intelligence Cadre (Group 'C') Service Rules, 2015 (for short '2015



Rules’). These Rules are applicable up to the post of SI. As per 2015 Rules, an ASI is eligible for promotion on completion of 5 years qualifying service. Complete procedure for promotion from the post of Constable to Head Constable, Head Constable to ASI and ASI to SI has been underscored in the said Rules. Rules 11 & 12 read with Appendix ‘C’ and ‘D’ provide for complete procedure for promotion from the post of ASI to SI. The respondent, in gross violation of prescribed procedure, has promoted private respondents from retrospective effect. They have been wrongly granted ante dated promotion.

4. *Per contra*, Mr. Aman Dhir, Deputy Advocate General, Punjab submits that petitioners are wrongly relying upon Rule 13.10 of PPR. The petitioners as well as private respondents are part of Intelligence Cadre and their services are governed by 2015 Rules. There are categorical Rules governing promotion, thus, as per Rule 15 of aforesaid Rules, the promotion of private respondents was governed by Rules 11 and 12 of 2015 Rules. As per Appendix ‘B’ of 2015 Rules, 60% posts of SI are earmarked for promotion. The promotion has to be made on the basis of seniority-cum-merit. The minimum qualifying service for promotion is 5 years from the rank of ASI. The private respondents joined service on 15.12.2011 and completed 5 years’ service on 14.12.2016. They were deputed for Upper School Course from 22.08.2016 to 15.12.2016. They successfully cleared the said course. The result of Upper School Course was declared on 23.01.2017. The Director General of Police, Punjab (‘DGP’) issued office order dated 01.03.2017 maintaining that ASIs and exempted ASIs who were deputed to Upper School Course would be granted promotion list w.e.f. 16.12.2016. Though said letter related to ASIs forming part of Armed Police



and District Police, yet, it was equally applicable to private respondent because private respondents were also part of Upper School Course which concluded on 16.12.2016. The members of Armed Police and District Police have been promoted to the Rank of SI on the basis of letter dated 01.03.2017 of DGP. If private respondents are denied promotion on the ground that their result of Upper School Course was declared in January' 2017 or DPC met on 16.03.2017, it would be discriminatory and violative of right of equality.

5. Ms. Anu Chatrath, Senior Advocate submits that petitioners are guilty of suppression of facts. They have not placed on record letter dated 01.03.2017 issued by DGP. As per said letter, ASIs who completed Upper School Course on 15.12.2016 are entitled to promotion w.e.f. 16.12.2016. The private respondents were promoted in 2017 whereas instant petition was filed in 2022. The claim of the petitioners is hit by doctrine of delay and laches. It is settled proposition of law that promotion or seniority cannot be disturbed after a reasonable period. The members of District Police and Armed Police were also promoted along with the private respondents. Few of them might have been further promoted in the intervening period. Any order disturbing promotion of private respondents would adversely affect promotion of members of Armed Police and District Police Cadre. They are not before this Court. A Full Bench of this Court in ***Head Constable Sardul Singh v. Inspector-General of Police, Punjab and others, 1970 SCC OnLine P&H 158*** has clearly held that where officers are deputed for promotion course on the basis of seniority-cum-merit, the condition of minimum period of service cannot be applied. The DGP has also issued instructions dated 06.01.1993 in this regard, thus, the petitioners cannot challenge selection of private respondents for Upper School Course on the



ground that they had not completed one year training plus 5 years service. The private respondents had already completed 5 years service and as per judgment of Full Bench of this Court in ***Head Constable Sardul Singh (supra)***, they were rightly deputed for Upper School Course.

6. I have heard the arguments of the parties and perused the record with their able assistance.

7. From the pleading and arguments of both sides, the following questions arise for the consideration of this Court:-

- i.) Whether private respondents were deputed for promotion course contrary to Rules?
- ii.) Whether private respondents were promoted from the date of their entitlement or otherwise?
- iii.) Whether writ petition is liable to be dismissed on the doctrine of delay and laches?

8. The conceded position emerging from record is that petitioners as well as private respondents are members of Intelligence Cadre. The petitioners were directly appointed as SIs on 29.12.2016. The private respondents joined Intelligence Cadre in December' 2011 as ASI. They were supposed to undergo one year training which they completed on 15.12.2012. They were deputed for promotion course known as Upper School Course w.e.f. 22.08.2016. They were deputed along with ASIs of District Police and Armed Police. Members of different cadres completed Upper School Course on 15.12.2016. The result of Upper School Course was declared on 23.01.2017. The DPC met on 16.03.2017. The DGP issued letter dated



01.03.2017 whereby it was ordered that ASIs who have completed Upper School Course on 15.12.2016 may be promoted as SIs w.e.f. 16.12.2016. This letter was relating to District Police and Armed Police. There was no reference of members of Intelligence Cadre. The private respondents were promoted as SIs w.e.f. 16.12.2016 on the ground that they have completed promotion course on 15.12.2016. In the tentative seniority list, the petitioners were senior to private respondents, however, as per final seniority list, they are junior to private respondents.

9. Before adverting to the issue involved, it would be relevant to look at relevant statutory provisions. The Punjab Police prior to Punjab Police Act, 2007 (for short '**2007 Act**') was governed by Punjab Police Act, 1861 read with Punjab Police Rules, 1934. There were two cadres as per 1934 Rules i.e. 'District Police' and 'Intelligence/Investigation Wing'. 2007 Act came into force w.e.f. 20.02.2008. As per said Act, there is one police service which consists of various ranks, cadres and members of Indian Police Service allocated or deputed to the State. As per Section 4(b) of 2007 Act, the officers of subordinate ranks are divided into five cadres i.e. i) District Police ii) Armed Police iii) Intelligence iv) Investigation and v) Technical and Support Services. Seniority of each cadre is maintained at State level and transfer of members from one cadre to another is not permissible. A member of police service may be sent on deputation from one cadre to another cadre or organization or department. As per Section 80, the State Government shall make rules for carrying out the purposes of the Act. As per Section 85, 1934 Rules shall remain in force unless those rules are specifically superseded. Relevant extracts of Sections 2(z), 3, 4, 80 and 85 of 2007 Act are reproduced as below: -



“2. **Definitions**

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- (z) “Service” means the police service, constituted under this Act;

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3. **Constitution of Police Service –**

- (1) There shall be one Police Service in the State.
- (2) Notwithstanding anything contained in any other law or any of the provisions of this Act, members of the Police Service shall be liable for posting anywhere in the State and outside the State, as may be ordered by the competent authority.

4. **Organization and Composition of Police Service-**

Subject to the provisions of this Act-

(a) the Police Service shall consist of such numbers in various ranks and have such organization or cadres, as the State Government may, by general or special order, determine, and shall include the members of the Indian Police Service, allocated or deputed to the State;

(b) the officers of subordinate ranks of district police, armed police, Intelligence and technical and support services shall form separate cadres. Seniority of each cadre shall be maintained at the State level. Transfer of a member of one cadre to another cadre shall not be allowed;

(c) notwithstanding anything contained in sub-clause (b), a member of the Police Service may be allowed to be deputed on deputation from one cadre to another cadre or organization or department, as per rules;

(d) the direct recruitment to various subordinate ranks in the Police Service shall be made through a State Level Police Recruitment Board or District Level Police Recruitment Board in a transparent manner;



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80. Power to make Rules-

(1) The State Government shall, by notification in the Official Gazette, make rules for carrying out the purposes of this Act, within one year from the date on which this Act, come into force.

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85. Continuation of Punjab Police Rules, 1934

The Punjab Police Rules, 1934, framed under the Police Act, 1861 (Central Act 5 of 1861), shall remain in force, unless those rules are specifically superseded.”

10. The petitioners as well as private respondents are part of Intelligence Cadre. To govern service conditions of members of Intelligence Wing, the Governor of the State, in exercise of its power under proviso to Article 309 of the Constitution of India, initially framed 2014 Rules which were followed by 2015 Rules. These Rules are specific rules and contemplating service conditions. In respect of the matters which are not specifically covered by 2015 Rules, Punjab Civil Services (General and Common Conditions of Service) Rules, 1994 are applicable. For rest of the matters, Punjab Police Rules, 1934 are applicable. The relevant extracts of 2015 Rules read as:

“No.G.S.R.45/Const.Art.309/2015.- *In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India read with section 80 of the Punjab Police Act, 2007, and all other powers enabling him in this behalf, the Governor of Punjab is pleased to make the following rules regulating the recruitment and the conditions of Service of the persons appointed to the Punjab Intelligence Cadre (Group ‘C’) Service, namely:-*



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14. Application of the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994.- (1) *In respect of the matters, which are not specifically provided in these rules, the members of the Service shall be governed by the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994, as amended from time to time.*

(2) *The Punjab Civil Services (General and Common Conditions of Service) Rules, 1994, at present in force, are contained in Appendix 'E'.*

15. Application of the rules.- *For all other aspects the Punjab Police Rules, 1934 shall be applicable to the members of Service except rules 13.21 and 21.25.*

Provided that any order issued or any action taken under the aforesaid rules, shall be deemed to have been made or taken under the provisions of these rules.

16. Repeal and Saving.- *The Punjab Intelligence Cadre (Group 'C') Service Rules, 2014, are hereby repealed: Provided that any order issued or any action taken under the rules so repealed, shall be deemed to have been issued or taken under the corresponding provisions of these rules."*

11. Rule 6 of 2015 Rules prescribes method of appointment, qualification and experience of members of service. Rule 6(3) provides that no person shall be appointed to a post unless he possesses qualifications and experience as specified against that post in Appendix 'B'. Rule 6 as well as Appendix 'B' is reproduced as below:-

Rule 6

"6. Method of appointment, qualifications and experience.-
(1) *Appointment to the Service shall be made in the manner as specified in Appendix 'B':*

Provided that if no suitable candidate is available for appointment to the Service by promotion or by direct



appointment , then appointment to the Service shall be made by deputation or absorption of a person holding a similar or an identical post under the State Government or the Government of India.

Provided further that a person to be absorbed in the Service shall give consent for the same and shall have to be found suitable by the Scrutiny Committee.

(2) Any official on deputation in Intelligence Wing can be repatriated to his parent department at any time without any prior notice, if his work and conduct is not found satisfactory.

(3) No person shall be appointed to a post in the Service, unless he possesses the qualifications and experience as specified against that post in Appendix ‘B’.

Appendix ‘B’ (See rule-6)					
Serial No.	Designation of the Post	Percentage for appointment		Method of appointment, experience and qualifications for appointment by	
		Direct Appointment	Promotion	Direct Appointment	Promotion
			Seniority-cum-merit		Seniority-cum-merit
1.	Sub-Inspector	Forty per cent	Sixty per cent	(a) Should be graduate from a recognized university or institution; (b) Should possess a Computer Information Technology course equivalent to ‘O’ level certificate of Department of Electronics Accreditation of Computer Course (DOEACC) of Government of India;	From amongst the Assistant Sub-Inspectors, who have put in minimum of five years qualifying Service in the said rank.



				<i>(c) Selection shall be made by the Board through a process which includes physical measurement, physical efficiency test, written test and interview.</i>	
2.	<i>Assistant Sub-Inspector</i>	-	<i>Hundred per cent</i>		<i>From amongst the Head Constables, who have put in minimum of five years qualifying Service in the said rank.</i>
3.	<i>Head Constable</i>	-	<i>Hundred per cent</i>		Basic Proficiency Test:- 25% percent from amongst the Constables, who have successfully completed probation period of three years and as per standing order issued from time to time. Seniority-cum-merit:- 65% percent from amongst the Constables, who have completed five years of Service including three years successful



					<i>probation period.</i>
4.	<i>Constable</i>	<i>Hundred per cent</i>	-	<i>(a) Should be graduate from a recognized university or institution; (b) Should possess a Computer Information Technology course equivalent to 'O' level certificate of Department of Electronics Accreditation of Computer Course (DOEACC) of Government of India; (c) Selection shall be made by the Board through a process which includes physical measurement, physical efficiency test, written test and interview</i>	

12. From the perusal of above-quoted Appendix ‘B’, it is evident that 60% posts of SI are earmarked for promotion. The promotion is based upon seniority-cum-merit. An ASI who has put in minimum 5 years of qualifying service as ASI is eligible for promotion. There is no promotion through Basic Proficiency Test. Promotion through Basic Proficiency Test is possible from the post of Constable to Head Constable. 100% posts of Head Constables are reserved for promotion. There is no direct recruitment to the rank of Head Constable. 25% Head Constables are promoted through Basic



Proficiency Test and 65% through seniority-cum-merit. In the Appendix 'B', nothing is expressed about remaining 10%. The simple reason seems to be that as per PPR up to 10% posts of Head Constable may be brimmed from Constables having outstanding performance or sports achievements. In case of promotion from HC to ASI and ASI to SI, promotion is only made on the basis of seniority-cum-merit.

13. Rule 11 of 2015 Rules provides that seniority-cum-merit promotion shall be made on the recommendation of DPC. The Committee has to be constituted by DGP on the recommendation of the Head of Intelligence Cadre. It is mandatory to undergo promotion course within one year from the date of approval of DPC proceedings. As per Rule 12, promotion course is compulsory before substantive promotion in the next higher rank. The performance in promotion course is taken into consideration at the time of determining seniority in the next higher rank. Appendix 'C' and 'D' further provide for procedure of promotion. Rule 11 with Appendix 'C', and Rule 12 with Appendix 'D' are reproduced as below: -

Rule 11

“Basic Proficiency Test and Seniority-cum-merit promotions.- (1) The Basic Proficiency Test and seniority-cum-merit promotions shall be made on the recommendations of Departmental Promotion Committee to be constituted by the Director on the recommendation of the Head of Intelligence Wing. The Chairperson of the Departmental Promotion Committee for Head Constable and Constable shall be in the rank of Deputy Inspector General of Police and for Sub-Inspector and Assistant Sub-Inspector shall be in the rank of Inspector General of Police.



It shall be mandatory to undergo the promotion course within a period of one year from the date of approval of Departmental Promotion Committee proceeding beyond which these proceedings shall not be valid.

(2) Additional provisions and procedure for promotion and seniority shall be such, as specified in Appendix ‘C’.

Appendix ‘C’

(See rule-11(2))

Seniority and Promotion

Additional provisions and procedure

- 1) Promotions in subordinate ranks in Intelligence Cadre (Group ‘C’) shall be through a three tier system involving selection for promotional course, successful completion of promotion course and preparation of select list for promotion. There will be system of promotion i.e., Basic Proficiency Test and Seniority-cum-Merit promotion.*
- 2) The examination, promotion courses and promotion lists for substantive promotion from one rank to another will be as follows –*

<i>Rank (from)</i>	<i>Rank (To)</i>	<i>Basic Proficiency test</i>	<i>Promotion Course</i>	<i>Promotion list</i>
				<i>Basic Proficiency Test and Seniority-cum-Merit</i>
<i>Constable</i>	<i>Head Constable</i>	<i>A</i>	<i>Level I</i>	<i>C-I</i>
<i>Head Constable</i>	<i>ASI</i>	<i>B</i>	<i>Level II</i>	<i>D-I</i>
<i>ASI</i>	<i>SI</i>	<i>C</i>	<i>Level III</i>	<i>E-1</i>

3) Seniority of Direct recruits

The seniority list after declaration of result of Basic Training course shall be prepared by a committee of three officers to be constituted by the Head of Intelligence Wing. After approval by the Head of Intelligence Wing, the seniority shall be final for all intents and purposes.



4) ***Basic Proficiency Test and Seniority-cum-Merit promotions***

- a) *While recommending eligible candidates for Basic Proficiency Test and seniority-cum-merit promotions, the DPC shall scrutinise record and recommend the eligible candidates in order of existing seniority.*
- b) *After the receipt of result of promotion course, the inter-se seniority of the successful candidates will be worked out by the DPC. After approval by the Head of Intelligence Wing, the seniority shall be final for all intents and purposes.*
- c) *Thereafter, their names will be included in respective promotion list (C-I, D-I, E-I) in order of seniority which shall be final for all intents and purposes. Further procedural details can be laid down by the Director General of Police on recommendation of the Head of Intelligence Wing regarding procedure to be followed for seniority and promotion.*

Rule 12

Promotion courses.- (1) *Promotion course shall be compulsory before substantive promotion in the next higher rank.*

(2) *The performance in promotion course shall be taken into consideration at the time of determining the seniority in the next higher rank.*

(3) *Additional provisions and procedural guidelines regarding training shall be such as specified in Appendix 'D'.*

Appendix 'D'

(See rule -12(3))

Training

Additional provisions and procedural guidelines

1. **Basic Training Courses**



A Standing Order will be issued by the DGP on recommendation of Head of Intelligence Wing regarding the training curriculum, duration, evaluation and other details for Basic Training Courses –for Constables.

2. *Promotion Course*

- (i) *Promotion course will be organised for promotion from one rank to another in Group ‘C’ posts of Intelligence cadre as follows –*

<i>Promotion Course</i>	<i>For promotion from</i>	<i>To</i>
<i>Level I</i>	<i>Constable</i>	<i>Head Constable</i>
<i>Level II</i>	<i>Head Constable</i>	<i>Asstt. Sub-Inspector</i>
<i>Level III</i>	<i>Asstt. Sub-Inspector</i>	<i>Sub-Inspector</i>

- (ii) *A Standing Order will be issued by the DGP on recommendation of Head of Intelligence Wing regarding the training curriculum, duration, evaluation and other details for promotion course.”*

14. From the perusal of Rule 11, it is evident that promotion is made on seniority-cum-merit basis and it is on the recommendation of the DPC. As per Rule 11, promotion course has to be completed within one year from the date of approval of recommendation of DPC. As per Appendix ‘C’, promotion is made through a three-tier system comprising selection for promotional course, successful completion of promotion course and preparation of select list for promotion. For the rank of SI, promotion course is Level III known as Upper School Course. As soon as list for promotion is prepared, name of the officer is entered in promotion list i.e. E-1 for SI. As per Para 4(a) of Appendix ‘C’, DPC while recommending eligible candidates for seniority-cum-merit promotions shall scrutinize record and recommend the eligible candidates in order of existing seniority. After



receipt of result of promotion course, the *inter se* seniority is worked out by DPC. The seniority list becomes final after approval by Head of Intelligence Wing. After approval by Head of Intelligence Wing, the names of officers are included in promotion list i.e. C-I, D-I and E-1 in order of seniority.

15. As per Rule 12, promotion course is compulsory before substantive promotion in the next higher rank. Performance in promotion course is taken into consideration at the time of determining seniority in the next higher rank. The DGP on recommendation of Head of Intelligence Wing has to issue standing order regarding curriculum, duration and other details for promotion course.

16. During the course of hearing, learned State counsel produced documents to the effect that members of Intelligence Wing have to undergo/study additional course/curriculum besides course prescribed for members of other cadres.

17. From the conjoint reading of Rule 11, 12, Appendix 'C' and 'D', it comes out that following procedure is prescribed for promotion from the rank of ASI to SI.

- i.) The candidates who are eligible for promotion on the basis of seniority-cum-promotion are identified by Departmental Promotion Committee. An ASI who has completed 5 years qualifying service is eligible for promotion.
- ii.) The selected candidates are deputed for promotion course.



- iii.) The promotion course has to be completed within one year from the date of approval of DPC proceedings.
- iv.) On completion of promotion course, DPC prepares list of candidates who have successfully completed promotion course. *Inter se* seniority of successful candidates is worked out by DPC on the basis of performance in promotion course.
- v.) The seniority becomes final as soon as approved by Head of Intelligence Wing.
- vi.) After approval of seniority by Head of Intelligence Wing, names of candidates are included in promotion list i.e. C-I, D-I or E-1. The present matter relates to E-1.
- vii.) After inclusion of names in List C-1, D-1 or E-1, the officers are promoted by Head of Intelligence on recommendation of the DPC.

18. Rule 8 of Punjab Civil Services (General and Common Conditions of Service) Rules, 1994 provides that seniority *inter se* of persons appointed to posts in each cadre of a service shall be determined by the length of continuous service on such posts in that cadre of the Service. Note of said Rule provides that seniority of persons appointed on purely provisional basis or on *ad hoc* basis shall be determined as and when they are regularly appointed, keeping in view the dates of such regular appointment. The said Rule is reproduced as below: -



“8. Seniority- *The seniority inter se of persons appointed to posts in each cadre of a Service shall be determined by the length of continuous service on such post in that cadre of the Service.*

Provided that in the case of persons recruited by direct appointment who join within the period specified in the order of appointment or within such period as may be extended from time to time by the appointing authority subject to a maximum of four months from the date of order of appointment the order of merit determined by the Commission or the Board, as the case may be, shall not be disturbed:

Provided further that in case a person is permitted to join the post after the expiry of the said period of four months in consultation with the Commission or the Board, as the case may be, his seniority shall be determined from the date he joins the post:

Provided further that in case any person of the next selection has joined a post in the cadre of the concerned Service before the person referred to in the preceding proviso joins, the person so referred shall be placed below all the persons of the next selection who join within the time specified in the first proviso:

Provided further that in the case of two or more persons appointed on the same date, their seniority shall be determined as follows:-

- (a) a person appointed by direct appointment shall be senior to a person appointed otherwise;*
- (b) a person appointed by promotion shall be senior to a person appointed by transfer,*
- (c) in the case of persons appointed by promotion or transfer, the seniority shall be determined according to the seniority of such persons in the*



appointments from which they were promoted or transferred; and

- (d) in the case of persons appointed by transfer from different cadres their seniority shall be determined according to pay, preference being given to a person who was drawing a higher rate of pay in his previous appointment; and if the rates of pay drawn are also the same, then by their length of service in these appointments and if the length of service is also the same, an older person shall be senior to a younger person;*

Provided further that in the case of persons recruited by direct appointment in the same cadre obtaining equal marks during same selection process, their inter-se-seniority shall be determined on the basis of their age. That is, an older person shall be senior to the younger person.]

Note:- Seniority of persons appointed on purely provisional basis or on ad hoc basis shall be determined as and when they are regularly appointed keeping in view the dates of such regular appointment.”

19. In the wake of above-noted legal and factual position, water body is brimmed to swim.

Question No. i) Whether private respondents were deputed for promotion course contrary to Rules?

The petitioners are claiming that as per Rule 13.10 of PPR, an ASI may be deputed for Upper School Course if he has completed one year training as well as 5 years service as ASI. The private respondents have not completed 6 years service at the time of their enlistment for Upper School Course. Rule 13.10 of PPR is reproduced as below: -



13.10 List 'E'. Selection for promotion course for A.S.Is. Promotion to the rank of Sub- Inspectors. - (1) List 'E' shall be maintained for promotion to the rank of SubInspector in two parts in Form No. 13.10 in each range. The names of Assistant Sub-Inspectors who qualify the promotion course for Assistant Sub- Inspectors at Police Training College shall be entered in Part-I of the said List 'E'. While entering the names in this list they shall maintain their seniority inter-se. The names of the outstanding Assistant Sub-Inspectors who have not qualified the course mentioned above, but otherwise are of exceptional merit and are considered suitable, may, with the approval of the Inspector-General of Police, be entered in Part-II of List 'E' provided they are not below the age of forty-five years.

Provided further that not more than ten per cent of the posts of Sub- Inspectors (inclusive of temporary and permanent posts) shall not any time contain more than two per cent of cadre strength of the Sub-Inspectors in the range.

(2) No Assistant Sub-Inspector shall be eligible for admission to the promotion course of Assistant Sub-Inspectors at the Police Training College, unless –

- (i) he has been confirmed as Assistant Sub-Inspector;*
- (ii) he is below forty-five years on the date of commencement of the next course; and*
- (iii) he, in the case of promotee has completed four years' service after passing the promotion course for Head Constables and in the case of direct recruit has completed five years of service after passing Assistant Sub- Inspectors initial course.*

(3) Promotion to the rank of Sub-Inspector shall be made strictly in accordance with the seniority on List 'E'. Provided that the seniority may be ignored in exceptional circumstances for reasons to be recorded in writing by the



Deputy Inspector- General and with the approval of the Inspector-General of Police.

(4) Omitted vide Punjab Govt. Notification No. G.S.R. 104/CA 5/Amd, dated 3.12.1981.”

[Emphasis added]

20. The respondents are claiming that as per judgment of Full Bench of this Court in ***Head Constable Sardul Singh (supra)***, an officer may be deputed for Upper School Course though he has not completed requisite number of years of service. The respondents have wrongly placed reliance upon judgment of this Court in ***Head Constable Sardul Singh (supra)*** because said judgment was delivered on 05.05.1970 whereas Rule 13.10 in the present form came into force in 1972. The judgment of this Court in ***Head Constable Sardul Singh (supra)*** was based upon instructions of Inspector General of Police. The said judgment cannot be relied upon in view of existing Rule 13.10 which specifically provides for minimum number of years of service for promotion course. As per Rule 13.10(2), no ASI can be admitted to promotion course unless he has completed 4 years service in case of promottee and 5 years service in case of direct recruit after passing initial course. Initial course is of one year, thus, a direct recruited ASI cannot be enlisted for promotion course unless he has completed 5 years service after completing initial course.

21. In the case in hand, the private respondents were deputed for Level-III promotional course without completing 5 years service after training, thus, they could not be deputed for promotion course. Thus, their enlistment for promotion course was beyond Rule 13.10(2) of PPR.



22. Though findings are returned with respect to completion of qualifying service for promotion as per Rule 13.10 of PPR, however, these findings would not be of much relevance because petitioners and private respondents are part of Intelligence Cadre and members of Intelligence Cadre are governed by 2015 Rules. Punjab Police Rules are applicable for aspects which are not covered by 2015 Rules. Rules 11 & 12 read with Appendix 'C' and 'D' specifically provide for mode and manner of promotion from the rank of ASI to SI, thus, PPR are not applicable with respect to promotion up to the rank of SI. As per 2015 Rules, an ASI may be deputed for promotion course on completion of 5 years qualifying service. The private respondents were deputed for promotion course as per 2015 Rules. They had not completed 5 years qualifying service prior to their enlistment for promotion course. They completed 5 years qualifying service in December' 2016, however, were deputed for promotion course in August' 2016. They completed course in December' 2016 which was month of their completion of 5 years qualifying service. Rule 13.10 of PPR creates necessity to complete 5 years service after training for promotion course whereas Rules 11 & 12 of 2015 Rules prescribe 5 years qualifying service for promotion. There is no embargo to depute an ASI for promotion course who has not completed 5 years qualifying service.

Question No. ii) Whether private respondents were promoted from the date of their entitlement or otherwise?

23. The private respondents have placed on record order dated 22.08.2016 passed by Inspector General of Police (Administration) Intelligence, Punjab. The said order was passed pursuant to order dated 11.08.2016 passed by a Division Bench of this Court in ***LPA No.1106 of***



2016, ASI Satpal Singh and others v. State of Punjab and others. By said order, dispute of seniority among directly recruited ASIs and promotee ASIs was adjudicated. Inspector General of Police in Para 16 of his order, framed issues to be adjudicated. Issue No.1 and its answer is relevant to instant case which for ready reference is reproduced as below:-

16. In view of the contentions legal position and judicial pronouncements it can be summarized that the following issues need to be decided vide this order.

- 1) Whether in case of Appellants (Promotee ASIs), the seniority in the rank of ASI is to be counted from the date of their enlistment in list D-I or from the date of actual promotion in light of the Rajinder Kumar case (Supra) and Bahadur Singh case (Supra)?*

Issue No. 1

17. With regard to the reference made by the Appellants to the judgments Rajinder Kumar case (Supra) and Bahadur Singh case (Supra) it was found that the Appellants was promoted before their claims. Hence, the direction of the Hon'ble High Court in the judgments mentioned ibid and in LPA 1106 of 2016 have been duly complied with qua this issue. Moreover, List-D is a list for selection of candidates for promotion course for Head Constables (PPR 13.9) and promotion to the rank of ASIs shall be made in accordance with seniority of the Head Constables on List-D (PPR 13.9 (A). Hence, date on which a Head Constable is brought on List D determine eligibility for promotion but the date of appointment to the rank of ASI shall be the date on which promotion to rank of ASI is done against a vacancy."

[Emphasis added]

24. In the case in hand, the private respondents joined service as ASI on 15.12.2011. They completed 5 years qualifying service on



14.12.2016. The DGP vide communication dated 29.08.2016 allocated 26 seats to Intelligence Wing for Upper School Course to be conducted during 2016-17. The Additional Director General of Police, Intelligence Wing vide memo dated 30.08.2016 deputed 26 ASIs for Upper School Course (2016-17 2nd Session). The course commenced w.e.f. 22.08.2016 at Punjab Police Academy, Phillaur. The private respondents along with members of District Police and Armed Police successfully completed their course. The Director, Punjab Police Academy, Phillaur vide communication dated 23.01.2017 declared them pass. The DPC met on 16.03.2017 and proposed promotion of private respondents from 16.12.2016. The Additional Director General of Police, Intelligence, Punjab vide order dated 28.03.2017 ordered to admit them to List-E w.e.f. 16.12.2016 and further promoted to the rank of Officiating SI from the date of their admission to List-E i.e. 16.12.2016.

25. From the perusal of 2015 Rules and PPR, it is evident beyond the pale of doubt that there are prescribed steps for promotion. Firstly, a candidate should be eligible for promotion e.g. if a candidate has completed qualifying service, however, he is facing major punishment, he would not be eligible for promotion. A committee selects candidates eligible for promotion course. No substantive promotion can be made without completing promotion course. After completion of promotion course, the name of successful candidates are considered by DPC and their seniority is determined. The performance during promotion course is also ground for seniority. The seniority recommended by DPC is approved by Head of Intelligence Cadre. After approval of recommendation of DPC, the names are recorded in E-1 List. Recording of name in E-1 List makes a candidate entitled to promotion and his actual promotion is subject to available



vacancies e.g. if names of 20 officers are recorded in E-1 List, however, 15 posts are vacant, only 15 officers would be promoted.

26. The private respondents indubitably underwent promotion course from 22.08.2016 to 15.12.2016. Their result was declared on 23.01.2017. DPC met on 16.03.2017 which considered result of promotion course and thereafter recommended names of private respondents for promotion. DPC noted in its proceedings that these officials as per Rule 13.10 of PPR are initially to be brought on promotion list E-1 and thereafter will be promoted to the rank of SI. It was further proposed that all these officers are eligible for grant of list E-1 as well as further promotion w.e.f. 16.12.2016 because their service record and ACRs for the last 5 years are satisfactory and no departmental enquiry/criminal case or vigilance enquiry is pending against them. Head of Intelligence Cadre ordered to enter name of private respondents in List E-1 w.e.f. 16.12.2016 and further promoted them from the said date. The 2015 Rules as well as 1934 Rules are clear to the extent that after passing of promotion course, name of successful candidate is recorded in E-1 List. The result of promotion course was declared on 23.01.2017, thus, there was no occasion to record names of successful candidates in List E-1 on 16.12.2016. There is no provision in the 2015 Rules as well as PPR which permits entry in List E-1 prior to declaration of result of promotion course. There is further no Rule which permits implementation of recommendation of DPC from retrospective date. There is further no Rule which permits Head of Intelligence Cadre to grant retrospective promotion. If a candidate by mistake or negligence is not granted promotion from the due date, he may be considered from retrospective date, however, regular promotions cannot be made from



retrospective date unless and until there is specific provision. The object of passing promotion course, recommendation of DPC, entry in List-E would lose its significance if retrospective promotions are permitted. Rule 12(1) of 2015 Rules categorically provides that promotion course shall be compulsory before substantive promotion in the next higher rank. Last date of the course is not considered as date of completion whereas it is completed on the declaration of result whereby candidate is declared pass. Nobody can be declared pass from retrospective date. The respondent while considering claim of private respondents for admission to Upper School Course in its order dated 22.08.2016 has clearly held that date on which a Head Constable is brought on List D determines eligibility for promotion but the date of appointment to the rank of ASI shall be the date on which promotion is made against a vacancy. The respondent has adopted contradictory stand while promoting private respondents from the date prior to declaration of result of promotion course which was mandatory to claim promotion. The respondent has further wrongly brought names of private respondents on List-E prior to result of promotion course and meeting of DPC. The private respondents could be promoted from the date of DPC and not prior to said date.

Question No.iii) Whether writ petition is liable to be dismissed on the doctrine of delay and laches?

27. The private respondents have pleaded that claim of petitioners is hit by doctrine of delay and laches. Contention of private respondents cannot be countenanced. It is liable to be rejected. The private respondents were promoted from retrospective date in March' 2017. Seniority list was prepared in 2019. The petitioners raised their issue before higher authorities



and approached this Court in 2022. Period of 2020-22 needs to be ignored in view of judgment of Hon'ble Supreme Court in ***Cognizance for Extension of Limitation, In re, (2022) 3 SCC 117***. Contention of respondents further needs to be rejected on the ground that there is recurring cause in favour of the petitioners. Promotion of private respondents from retrospective date is going to adversely affect future prospects of the petitioners. The private respondents have not been further promoted, thus, no right has accrued in their favour. The promotion of private respondents with retrospective effect as discussed hereinabove was made contrary to Rules. An illegality needs to be rectified before being multiplied. Court cannot permit to perpetuate the illegality. If the action of official respondents is not set at naught, it would legalize their action. It would create undue benefit in favour of private respondents as well as encourage officers to follow the same practice. It would be violative of Articles 14 and 16 of the Constitution of India because seniority and promotions are facets of conditions of service.

The respondents have contended that like private respondents members of District Police and Armed Police were granted promotion w.e.f. 16.12.2016. The private respondents as well as ASIs of other cadres completed Upper School Course on 16.12.2016. As per letter dated 01.03.2017 of DGP, E-1 List and promotion was granted from 16.12.2016. The private respondents are at par with members of other cadres. Any order of this Court would affect career of SIs of other cadres.

The aforesaid argument of private respondents is liable to be rejected. The private respondents as well as the petitioners are part of Intelligence Cadre and they are governed by 2015 Rules. PPR are applicable for the matters which are not occupied by 2015 Rules. Members of District



Police and Armed Police are governed by PPR. There are specific provisions in 2015 Rules with respect to appointment, seniority and promotion. These Rules are different from PPR. The DGP vide order dated 01.03.2017 ordered to promote ASIs of other cadres from 16.12.2016 and there was no order to promote the private respondents from the said date, therefore, neither letter dated 01.03.2017 of DGP is applicable to private respondents nor they can claim parity with members of other cadres. It would be apt to notice here that an executive order/instruction cannot override Rules. As per Rule 13.10 of PPR, an ASI is eligible for promotion course on completion of training and 5 years service whereas an ASI of Intelligence Cadre is eligible for promotion subject to completing 5 years qualifying service. The private respondents were deputed for Upper School Course even before completing 5 years qualifying service. They could not be deputed for Upper School Course as per Rule 13.10 of PPR. The said Rule is applicable to all cadres of police force except Intelligence. Any order with respect to date of seniority or promotion of private respondents is not going to affect seniority or promotion of members of other cadres. It is apt to notice here that after introduction of 2007 Act, seniority of subordinate ranks is maintained cadre wise. Every cadre is an independent cadre. Seniority or promotion of members of one cadre has no bearing to members of other cadres.

Seniority of petitioners

28. As per Rule 8 of Punjab Civil Services (General and Common Conditions of Service) Rules, 1994 *inter se* seniority is determined by the length of continuous service. The date of appointment on provisional or *ad hoc* basis cannot be considered for seniority. The seniority is considered from the date of regular appointment. The petitioners were appointed on

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29.12.2016 whereas private respondents were appointed as Sub-Inspector later on. Thus, petitioners are seniors to private respondents.

29. In the wake of above discussion and findings, this Court is of the considered opinion:

- i.) The private respondents were not deputed for promotion course contrary to 2015 Rules;
- ii.) The private respondents were wrongly promoted w.e.f. 16.12.2016. They could not be promoted prior to the date of meeting of DPC;
- iii.) The petition is not hit by doctrine of delay and laches, thus, cannot be dismissed on the said ground;
- iv.) The petitioners ought to be seniors to private respondents in the seniority list of Sub-Inspectors.

30. In the backdrop, the petition is allowed. Let the seniority of petitioners vis-a-vis private respondents be refixed considering the fact that private respondents shall be deemed to be promoted as Sub-Inspectors from the date of meeting of DPC.

(JAGMOHAN BANSAL)
JUDGE

19.08.2025*Mohit Kumar*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No