

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

(1)

**CWP-2787-2018 (O&M)
Reserved on: 12.08.2025
Pronounced on :15.09.2025**

2025:PHHC:126730-DB



MAMTA KHARB AND OTHERS

...PETITIONERS

Vs.

STATE OF HARYANA AND OTHERS

...RESPONDENTS

(2)

**CWP-22713-2017 (O&M)
Reserved on: 12.08.2025**

ASHISH CHAUDHARY AND OTHERS

...PETITIONERS

Vs.

STATE OF HARYANA AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. D.S. Patwalia, Senior Advocate, assisted by
Mr. Gaurav Rana, Advocate,
Mr. R.P.S. Bara, Advocate for
Mr. Opinder Pal Singh, Advocate for petitioner No.2 in
CWP-2787-2018 and for respondent No.2, 4 and 10 in CWP-
2787-2018.

Mr. Akshay Bhan, Senior Advocate, assisted by
Mr. A.S. Talwar, Advocate and
Mr. A.S. Rawaley, Advocate
for the petitioners in CWP-22713-2017 and
for the respondents in CWP-2787-2018.

Mr. Sajjan Singh, Advocate
for petitioner No.3 in CWP-2787-2018.

Mr. Akshay Bector, Advocate, and

Mr. Ishmeet Singh, Advocate
for petitioner No.4 in CWP-2787-2018.

Mr. Sanjeev Manrai, Senior Advocate, assisted by
Mr. Deepak Achint, Advocate,
Mr. Gagandeep, Advocate and
Mr. Rohit Bhardwaj, Advocate
for respondent No.8 in CWP-2787-2018.

Mr. Sanjeev Kaushik, Addl. A.G., Haryana with
Mr. Divyanshu Kaushik, Advocate
Mr. Simran Sharma, Advocate
Mr. Manreet Kaur, Advocate, and
Ms. Amisha Rana, Advocate.

Mr. Abhishek Arora, Advocate with
Ms. Sanchita Jain, Advocate
for respondents No.4 and 10 in CWP-2787-2018.

Mr. Ajit Singh Lamba, Advocate and
Mr. Yashdeep Nain, Advocate
for respondents No.13, to 16, 19, 21, 23, 24, 25, 29, 34,
36, 40 and 44 in CWP-22713-2017.
Mr. Lalit Rishi, Advocate,
for respondent No.12 in CWP-22713-2017.

ASHWANI KUMAR MISHRA, J.

1. The above-noted writ petitions are connected to each other and are heard together. They are thus being disposed of by this common judgment.
2. The petitioners in CWP-2787-2018 were appointed as Deputy Superintendent of Police (*for short 'the DSP'*) by way of direct recruitment, by the State of Haryana under sports quota on account of their outstanding achievement in the field of sports. They have participated in international sports and have brought laurels for the State of Haryana and the country in different sporting events including Olympic Games, Common Wealth Games, Asian Games, World Championship and other events of importance. They are aggrieved by denial of seniority to them from the date of their initial appointment, by virtue of Rule 12 of the Haryana Police Service Rules, 2002

(for short 'Rules of 2002') which provides for seniority to the post from the date of confirmation in service and not from the date of initial appointment. Challenge is also laid to Rule 10 of the Rules of 2002, insofar as it provides for confirmation in service on completion of probation, inclusive of training, seniority and availability of vacant permanent post. A prayer is also made to command the respondents to confirm the petitioners on the post of DSP on completion of two years term of probation or upon completion of maximum period of probation provided for in the Rules of 2002 i.e. three years.

3. Petitioners No.1 and 2 were appointed as DSP on 05.10.2007, on account of their outstanding contribution in the field of sports. Insofar as petitioners No.3 to 12 are concerned, they were appointed as DSP under sports quota vide notification dated 24.06.2008 and 06.01.2009 respectively. Undisputedly appointment to the post of DSP is regulated by the Rules of 2002. These rules have been made by the Government of Haryana in exercise of powers under the proviso to Article 309 of the Constitution of India. Rule 6(1) of the Rules of 2002, provides that 70% posts of DSP shall be filled by way of promotion from the rank of Inspector and 30% by direct recruitment. Sub-Rule 3 of Rule 6 contemplates that direct appointment to the post of DSP shall be made through a common/combined examination, the syllabus of which shall be the same as in the case of common/combined examination conducted by the Commission for recruitment to Haryana Civil Services (Executive Branch) and Allied Services (*hereinafter referred to as 'the Commission'*).

4. Sub-Rule 4 of Rule 6 contemplates that the candidates applying for common/combined examination conducted by the Commission shall clarify as to whether they are applying for recruitment to Haryana Police

Services, in view of special requirement of age, physique, aptitude etc as per Rules of 2002. Eligibility in terms of age of appointment; physical fitness; physical parameters as well as qualification of graduation and ability to read and write Hindi are specified in Rule 8 of the Rules of 2002.

5. Rule 10 of the Rules of 2002 provides for probation of members of service which reads as under:-

10 (a) Member of the Service shall be on probation for a period of two years which shall include the period of training at the Police Training College and in the district and in the case of members appointed by promotion, the Government may by a special order in each case permit period of officiating appointment in the service to count towards the period of probation. Completion of probation will not entitle a member of service for confirmation. Confirmation in service shall be made on the basis of seniority and availability of vacant permanent post.

(b) The services of a member recruited by direct appointment may be dispensed with by Government on his failing to pass the final examination at the end of his period of training or on his being reported on, during or at the end of his period of probation, as unfit for promotion.”

6. Rule 12 of the Rules of 2002 provides for seniority of members of services, to be determined by the date of confirmation, which is reproduced as under:-

“12. The seniority of the members of the service shall be determined by the date of confirmation in the service:

Provided that if two or more members are confirmed on the same date.

(i) a member who is appointed to the service by promotion shall be senior to the member appointed otherwise;

(ii) in the case of members who were appointed by direct appointment, the seniority shall be determined in accordance with the position in the Common/Combined Examination /recommendations of the Haryana Public Service Commission.

(iii) in the case of members who were appointed to the service by promotion, the seniority shall be determined in accordance with the date of their entry in promotion list.”

7. Rule 6 of the Rules of 2002 providing for source of recruitment came to be amended on 24.06.2008, whereby direct recruitment to the extent of 30% was split so as to provide for 3% seats to be filled from amongst the Outstanding Sports Persons (*henceforth ‘OSP’*) who have won Gold, Silver or Bronze medals in Olympic Games or those who brought laurels to the Country and the State. By way of a further amendment made on 06.01.2009, 3% quota for OSP was enhanced to 6%. Notification dated 24.06.2008 and 06.01.2009 insofar as it provided for recruitment from amongst the OSPs is reproduced herein below:-

“Notification dated: 24.06.2008:

Provided further that 3% of the total permanent posts of Deputy Superintendents of Police, shall be reserved for outstanding sports persons of Haryana who win a Gold, Silver or Bronze Medal in Olympic Games or those sports person who bring extraordinary laurel to the country and the State of Haryana.

Notification dated 06.01.2009:

Provided further that 6% of the total posts of Deputy Superintendents of Police, shall be reserved for outstanding sportspersons of Haryana State who win a Gold, Silver or Bronze medal in Olympic Games or those sportspersons who bring extraordinary laurels to the country and the State of Haryana.”

8. It transpires that when petitioners No.1 and 2 were appointed on 05.10.2007 there existed no provision in the Rules of 2002 for appointment to be made from OSP. However, when petitioners No.3 to 12 were appointed as DSP the Rules did not contain provision for appointment from OSP Category.

9. The other writ petition has been filed by Ashish Chaudhary and others i.e. CWP-22713-2017 (*henceforth referred to as 'the second petition'*), contending that seniority of petitioners in CWP-2787-2018 cannot be fixed before their confirmation in the cadre of DSP in Haryana. The writ petitioners in the second petition did not belong to OSP Category and were appointed through open selection by the Commission, who were confirmed within the maximum period of probation specified in the rules. The respondents in the second writ are the petitioners in CWP-2787-2018 who were yet to be confirmed as DSP when the writs were filed. The immediate cause for filing the writ petitions was the promotion proposed to be made from the post of DSP to Indian Police Service (*hereinafter referred to as 'IPS'*).

10. By way of an interim order dated 28.02.2019, the promotions made (except for the petitioners in the first petition) was kept subject to the outcome of the writ petition.

11. On 13.01.2021, a direction was issued by this Court requiring the State to take an appropriate decision in the matter and place the same on record. On 19.07.2021, list of DSPs for induction into IPS for the year 2017, 2018 and 2019 came to be notified by the State. An application bearing CM No.5473-2023 was then filed by the petitioners in CWP-2787-2018 for bringing on record the communication of the Union Public Service

Commission (for short 'UPSC') inviting a panel of eligible DSPs for induction into IPS for the year 2020 (5 posts), 2021 (4 posts), 2023 (4 posts).

12. An interim order was then passed on 05.05.2023 by this Court, directing the State to consider those petitioners who fell within the zone of consideration for the purpose of appointment to Haryana Cadre of IPS for the years 2020 to 2022.

13. It is thereafter that the Government of Haryana passed an order on 23.11.2023, confirming the petitioners in the CWP-2787-2018, serving as DSPs, from the date they completed their training, as mentioned in the order itself. This order of 23.11.2023, had been passed by the State exercising its jurisdiction under Rule 18 of the Rules of 2002, which is reproduced herein below:-

“Where the Government is of the opinion that it is necessary or expedient to do so, it may by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.”

14. On 22.02.2024, UPSC called for the panel of eligible DSPs for induction into IPS for the year 2020 (5 posts), 2021 (4 posts), 2022 (4 posts) and 2023 (1 post), totaling to 14 posts. Since, further promotion from the post of DSP was to be made on the basis of gradation list without preparing any seniority list, an interim order came to be passed on 28.05.2024, restraining the respondents-State from sending names based on the gradation list for further promotion to the higher post. It is thereafter that on 27.08.2024 final seniority list of DSP has been published and has been circulated amongst the Officers.

15. At the time when the writ petition No.2787-2018 was filed, the petitioners asserted that no orders of confirmation of service were passed despite their working for nearly ten years as DSP. The petitioners contended that the period of probation under Rule 10 of the Rules of 2002, includes the period of training of two years, which could be extended by one more year. Thus, the maximum period of probation could only be three years.

16. Rule 10 of the Rules of 2002, as extracted above, shows that completion of probation does not make an employee entitled to confirmation in service. The confirmation in service had to be made on the basis of seniority and availability of vacant posts, even though the members of service may have successfully completed their probation period. As against it, Rule 12 of the Rules of 2002, contemplated that seniority of persons appointed as DSP, shall be reckoned from the date of their confirmation as DSP.

17. The petitioners, therefore, contend that Rules 10 and 12 of the Rules of 2002, are inconsistent with each other inasmuch as Rule 10 read with Rule 12 provides that unless one is confirmed, the seniority cannot be determined and unless seniority is determined, confirmation cannot take place. Thus, the scheme contained in Rules 10 and 12 of the Rules of 2002 is unworkable.

18. The petitioners in first petition contends that direct recruitment is always made against the permanent sanctioned vacancy and seniority ought to be counted from the date of substantive appointment. Reliance in this regard is placed on the judgment of the Hon'ble Supreme Court in the case of C.K. Antony etc. vs. Muraleedharan 1998 (4) SCT 151 as also in the case of O.P. Singla vs. Union of India 1984 AIR (SC) 1595.

19. In substance, the petitioners in first petition urge that determination of seniority from the date of confirmation is arbitrary and violative of Article 16 of the Constitution of India. For such submissions, the petitioners rely upon the judgment of the Hon'ble Supreme Court in the case of **S.B. Patvardhan vs. State of Maharashtra 1977 AIR (SC) 2051** and **The Direct Recruits Class II Engineering Officers Association and others vs. State of Maharashtra and others 1990 AIR (SC) 1607.**

20. Relying upon the aforesaid judgments, the petitioners seek a declaration from this Court that Rule 10 and 12 of the Rules of 2002 are *ultra vires*.

21. On the contrary, the petitioners in the second petition as well as the State of Haryana in the CWP-2787-2018 (*hereinafter referred to as 'Respondents'*) argue that the statutory rules prescribe the condition of satisfactory completion of probation and confirmation which will include the period of training at the Police Training College and in the District as also seniority and availability of post. Passing of exam after completion of training is one of the essential conditions for a person to claim seniority under Rule 12 of the Rules of 2002. Probation period *ipso facto*, will not enure confirmation in service, which is to be made on the basis of seniority and availability of vacant permanent post after completion of training.

22. According to respondents, seniority mentioned in Rule 10 denotes the line of appointment for the purpose of passing an order of confirmation under such rule subject to completion of probation and availability of vacancy. Seniority in the line of appointment would come first for the purpose of passing of an order of confirmation under Rule 10 of the Rules of 2002, so that no pick and choose method could be adopted while

passing the order of confirmation, and a member so appointed to the post may not be confirmed earlier by breaching the line of appointment.

23. Seniority under Rule 12 of the Rules of 2002, however, relates to fixation of *inter se* seniority of members of service, after passing of order of confirmation, which is to be determined by the date of confirmation in service. The confirmation under Rule 12 of the Rules of 2002, would thus come first for determining the seniority for further promotional avenues under Rule 12 including induction into IPS.

24. The inter-se seniority of members of service has to be determined on fulfillment of twin conditions, referred to above. Seniority, as per the respondents, thus, has to be regulated with reference to confirmation in service which comes into existence on the successful completion of probation and passing of test, thereafter as also availability of post. According to the respondents, therefore, it is possible that a person appointed earlier may not be confirmed due to non-fulfillment of twin conditions laid down for confirmation and consequently may become junior to others, who complete the training first and are confirmed earlier, while fixing seniority under Rule 12 of the Rules of 2002. The respondents, therefore, submit that Rules 10 and 12 of the Rules of 2002, are not in-conflict with each other. These rules have separate and distinct purpose/object to achieve. These rules have otherwise worked-well for the last more than two decades and do not require any interference.

25. Respondents also contend that Rule 10 of the Rules of 2002, in no way provides for deemed confirmation on completion of maximum period of probation of three years. A specific order is required to be passed by the Government based on seniority in the line of appointment and availability of

vacant sanctioned post in the respective quota. It is further urged that training is an integral part of probation and for a member of service who does not pass the departmental test, at the end of training, entails the consequence of termination from service. The respondents rely upon the judgment of the Hon'ble Supreme Court in the case of High Court of Madhya Pradesh through Registrar vs. Satya Narayan Jhavar (2001) 7 SCC 161, Headmaster, Lawrence School, Lovedale vs. Jayanthi Raghu and another (2012) 4 SCC 793, Durgabai Deshmukh Memorial Senior Secondary School and another vs. J.A.J. Vasu Sena and another (2019) 17 SCC 157.

26. Respondents lastly contend that the petitioners in the second petition having completed their training within the period of probation, are liable to be placed higher in the seniority list over those who have completed their training later in point of time. Reliance is placed upon the judgment of the Hon'ble Supreme Court in the case of Mohan Lal and others vs. State of Himachal Pradesh and others 1997 SCC (L&S) 969 and State of Madhya Pradesh vs. Ram Kinkar Gupta and others 2000 (10) SCC 77.

27. The argument of State is that the petitioners in the first petition (supra) have been retained in service even though they failed to complete their training within maximum period specified on account of their outstanding performance and achievements in the field of sports. This is the maximum that could be done for them. These petitioners cannot be allowed confirmation on completion of maximum period of probation overlooking the fact that they have not completed training.

28. Mr. Patwalia, appearing for the writ petitioners in first petition while emphasizing the outstanding achievements of the petitioners in the

field of sports, which has brought laurels for the country, contends that such outstanding sportspersons cannot be made to suffer only because they continued to perform in their sports for the State and thereby could not complete their training earlier. He submits that if training is made the condition precedent for their completion of probation and consequential confirmation and seniority, then it would amount to penalizing the petitioners by the State for having complied with the directions of the State itself. This would be wholly arbitrary. He further submits that the Rules, in the manner as it stand, unless are interfered with by this Court in the present writ petition, it would cause grave injustice in the matter. Mr. Patwalia also argues that the Rules are inconsistent with each other and are otherwise contrary to the settled principle in service jurisprudence. He further submits that on expiry of maximum period of probation under the Rules, the petitioners are liable to be treated as having been confirmed in service, and their seniority ought to be reckoned from such date. Mr. Patwalia has placed reliance in support of such plea upon the following judgments :-

- (i) **V. Vincent Velankanni vs. Union of India and others 2024 SCC OnLine SC 2642**, to contend that seniority is to be reckoned from the date of initial appointment.
- (ii) **L. Chandrakishore Singh vs. State of Manipur and others 1999 (8) SCC 287**, to contend that service rendered on probation cannot be ignored for determining seniority.
- (iii) **State of Punjab vs. Dharam Singh AIR 1968 SC 1210**, to contend that maximum period of probation prescribed shall be treated as deemed confirmation.

(iv) Mr. Patwalia, also relies on the judgments of the Hon'ble Supreme Court in the case of Wasim Beg vs. State of Uttar Pradesh and others (1998) 3 SCC 321, Raghunath Rai Bareja and another vs. Punjab National Bank and others (2007) 2 SCC 230, B. Premanand and others vs. Mohan Kokilal and others (2011) 4 SCC 266 and Pawan Pratap Singh v. Reevan Singh and others 2011 (3) SCC 267 in support of his other arguments.

29. Mr. Akshay Bhan, appearing on behalf of the petitioners in the second petition contends that the petitioners are bound by Clause 3 and 5 of their letter of appointment, which provides for applicability of the Rules of 2002 and consequently they cannot be permitted to question the Rules of 2002. He also submits that the petitioners in the first petition cannot seek any relaxation from the applicability of mandatory rules to the prejudice of third party rights. *Locus-standi* of the petitioners to maintain the present writ petition is also questioned. It is further submitted that Rule 10 and 12 of the Rules of 2002, are valid, constitutional and hence *intra-vires*. Mr. Bhan also contends that there is no contradiction in Rule 10 and 12 of the Rules of 2002. It is lastly urged that confirmation on completion of maximum period of probation is not permissible under the rules particularly when the petitioners have not completed their training. Mr. Bhan, has placed reliance on the following case laws:-

(i) M.P. Chandoria v. State of MP and others (1996) 11 SCC 173 and State of UP and others vs. Vikash Kumar Singh and others, 2022 (1) SCC 347.

30. Mr. Sanjeev Kaushik, Addl. AG, Haryana, appearing for the State has substantially adopted the arguments of Mr. Bhan and submits that the State has acted fairly and there is no illegality or arbitrariness on the part of the State. He further contends that the appointment to the writ petitioners is granted by relaxing the recruitment rules, which otherwise requires a candidate to qualify the examination conducted by the Commission for the purpose only in recognition of the merit of the petitioners in the field of sports. However, the necessary skill for discharging the duties of DSP would require training to be completed by such persons and, therefore, the State has not committed any error in granting confirmation to the petitioners from the date of completion of their training. Mr. Kaushik also submits that the State has already exercised its power under Rule 18 of the Rules of 2002, to relax the rules by extending the maximum period of probation, so as to retain the petitioners in service on account of their contribution in the field of sports and no further relief is liable to be extended to them.

31. We have given our thoughtful consideration to the respective submissions advanced by Mr. D.S. Patwalia, Sr. Advocate, Mr. Sanjeev Manrai, Sr. Advocate, Mr. Akshay Bhan, Sr. Advocate, Mr. Sanjeev Kaushik, Addl. AG, Haryana and other assisting counsels in the light of rules that regulate the appointment to the post of DSP.

32. Rules of 2002 are made by the State in exercise of powers conferred by the proviso to Article 309 of the Constitution of India. Rule 2(b) of the Rules of 2002 defines 'Direct Recruitment' to mean an appointment made otherwise than by promotion or transfer. Sub-Clause (g) of Rule 2 of the Rules of 2002 defines 'Services' to mean Haryana Police Services. Rule 3 of the Rules of 2002 provides that the service shall comprise the post shown

in Appendix A, which includes the post of DSP. The Appointing Authority for the post in the service is the Government. Direct recruitment to the post of DSP under the Rules was to be made to the extent of 30% while rest was to be made by way of promotion. The direct recruitment to the post of DSP, as noticed above, has to be made through a common/combined examination, the syllabus of which is required to be same as that of common/combined examination conducted by the Commission i.e. Haryana, Civil Services, (Executive Branch) and Allied Services.

33. By virtue of Rule 6(1) of the Rules of 2002, the quota for direct recruitment has since been amended to provide for 3% and later 6% posts to be reserved for OSP Category, however, Rule 6(3) of the Rules of 2002, which requires the recruitment to be made through the Commission remains unaltered. Under the Rules of 2002, therefore, direct recruitment would be permissible only by way of appointment through common/combined examination conducted by the Commission. So far as petitioner Nos.1 and 2 in the first writ are concerned, there existed no provision whereunder they could be appointed on account of their outstanding contribution in the field of sports. So far as other petitioners in the first petition are concerned, though their appointment was made permissible by virtue of Rule 6(1) of the Rules of 2002 under the provided for sports quota of 3% and later 6% for the persons of OSP Category but even for them the requirement of direct appointment by adhering to Sub-Rule (3) i.e. through the Commission has not been dispensed with.

34. Rule 6(3) of the Rules of 2002 mandating direct recruitment to be made through the examination conducted by the Commission is reproduced hereinafter:-

“The direct appointment to the post of Deputy Superintendent of Police shall be made through a common/combined examination, the syllabus of which shall be the same as in the case of common/combined examination conducted by the Commission for recruitment to Haryana Civil Services (Executive Branch) and Allied Services”

35. The petitioners in the first writ petition, are sportspersons of outstanding achievement and that alone justifies their appointment. Making of appointment on account of outstanding contribution in the field of sports though is not in question, but it remains undisputed that such appointment is not made by adhering to the procedure for direct recruitment specified in the Rules of 2002. Issues raised in the present bunch of petitions will, therefore, require consideration keeping in view the fact that the initial recruitment of petitioners in the first bunch is not strictly by adhering to the Rules of 2002.

36. Rule 10(a) provides that members of the service shall be on probation for a period of two years, which shall include the period of training at the Police Training College and in the District. Completion of probation, as such, is not to entitle a member of service to confirmation. Confirmation in service has to be made on the basis of seniority and availability of vacant permanent post. Sub-Rule (b) of Rule 10 of the Rules of 2002 provides that services of a member appointed by direct recruitment can be dispensed with by the Government on his failing to pass the final examination, at the end of his period of training, or on his being declared unfit for appointment on completion of probation period. The period of probation, however, can be extended under the proviso to Rule 10(b) of the Rules of 2002 by not more than one year.

37. Simultaneously, Rule 12 of the Rules of 2002 talks of seniority of the members of service to be determined by the date of confirmation in service. The thrust of petitioners' submission is that the Scheme contained in Rule 10 and 12 of the Rules of 2002 are mutually inconsistent, inasmuch as Rule 10(a) of the Rules of 2002 talks of confirmation in service on the basis of seniority and availability of vacant permanent post upon completion of probation while Rule 12 of the Rules of 2002 talks of seniority by the date of confirmation in the service.

38. At the first blush, the petitioners' submission with regard to the mutual incompatibility of Rule 10 and 12 of the Rules of 2002 appears attractive, but on a careful analysis of the Scheme of recruitment contained in the Rules of 2002 the argument does not hold good. Rule 10(a) of the Rules of 2002 postulates direct recruitment to be made for the service and probation for a period of two years which shall include the period of training at the Police Training College and in the District. For a meaningful understanding of the inter-play between probationer trainee, confirmation and seniority, we will have to understand the concept of training itself, for the post in question.

39. An affidavit has been filed on behalf of the State of Haryana stating that in view of the directions issued by the Supreme Court of India in **CWP(C) No.310 of 1996** titled as '**Parkash Singh v Union of India**' the State of Haryana has enacted Haryana Police Act, 2007. Section 96(4) of the Haryana Police Act, 2007 provides that the provisions of Punjab Police Rules, 1934, framed under the Police Act 1961, as applicable to the State of Haryana, shall be deemed to have been made under the Haryana Police Act, 2007 till new Rules are framed under the Act of 2007. Section 96(4) of the Haryana Police Act, 2007 is reproduced:-

“The Punjab Police Rules framed under the Police Act, 1861 (Act of 1861), as applicable to the State of Haryana, shall be deemed to have been framed under this Act till new rules are framed under this Act.”

40. Rule 19.44 of the Punjab Police Rules, 1934, as applicable to the State of Haryana, therefore, is stated to be applicable in the State of Haryana. The Schedule of Training is drawn for probationer DSP in accordance with existing Rule 19.44 of the Punjab Police Rules, Volume-II, applicable in the State of Haryana as per which, the Schedule of Training includes basic training at Haryana Police Academy, Madhuban for a period of one year to be followed with District Practical Training. The Schedule of Training, appended to the affidavit of Secretary to Government, Haryana in respect of one of the petitioner-Sardar Singh is reproduced:-

“ **THE SCHEDULE**

The Basic Training for Sh. Sardar Singh, Probationers Dy. SP (Sports Quota) in Batch No.13 started at HPA, Madhuban and after passing the basic training, the said Prob. Dy. SP is hereby relieved from this Academy today i.e. on _____, with the direction to report to his new place of attachment for District Practical Training of one year, as per the existing rule 19.44 of PPR Vol.-II (applicable in Haryana State).

The training schedule for the District Practical Training of the Probationers Dy. Superintendent of Police is as follows:-

Sr. No.	Attachment	Duration	Date will be decided by concerned Distt./Unit
1.	Attachment of District Headquarters	01 months	
2.	Attachment to a Police Station	02 months	
3.	To work as a S.H.O of a Police Station independently	02 months	
4.	Work as a Circle Officer	02 months	
5.	Work in Prosecution Branch	02 months	

6.	<i>Work in all Branches of District Police Officer</i>	<i>02 months</i>	
	<i>(a) Reserve office and establishment branch</i>	<i>02 weeks</i>	
	<i>(b) Accounts Work</i>	<i>02 weeks</i>	
	<i>(c) Crime Branch Work</i>	<i>02 weeks</i>	
	<i>(d) English Section and Correspondence</i>	<i>02 weeks</i>	
7.	<i>Miscellaneous (Revenue, Irrigation and Jail Training)</i>	<i>01 months</i>	
8.	Total	<i>12 months</i>	

Note: (I) The Probationer Dy. SP should also be given training in settlement work. This training should be done at a later, period in service and not during the above 12 months practical training period. Settlement training should be for a period for 03 months, during which period the officers should work as Assistant Settlement Officer.

The training administrator of the State may please ensure that the above time table is adhered to without any interruption. However, if it is felt that minor changes need to be made in the time table, then the same should be got ratified well in advance by the Unit/Distt.”

41. The Schedule of Training, therefore, consists of two parts. The first being at Haryana Police Academy Madhuban to be followed with District Practical Training, consisting of attachment to District Headquarters; attachment to a Police Stations; to work as an SHO of a Police Station independently; work as a Circle Officer; work in Prosecution Branch; work in all Branches of District Police Officer and miscellaneous working etc.

42. All the petitioners in the first writ were appointed as probationer DSP and formed part of Batch No.13.

43. The Schedule of Training, referred to above, indicates that a probationer DSP appointed under the Rules of 2002 is supposed to be exposed to the skills required for performing the duties attached to the post of

DSP, which is an essential condition required to be satisfied for the post itself. Efficiency of Police is directly linked to the performance of duties by the Police personnel. Unless a probationer is having requisite knowledge of work, the efficiency of force cannot be ensured. The Rules of 2002, therefore, will have to be understood in this context.

44. Rule 10(a) of the Rules of 2002 provides a period of probation to be of two years which is to include the period of training at Police Training College and in the District. Rule 10(b) of the Rules of 2002 then provides that a DSP recruited by direct recruitment will have to pass the final examination at the end of his period of training or else his services could be dispensed with. The service of a probationer, otherwise, could be dispensed with at the end of the probation period if he/she is found unfit for appointment. The period of probation otherwise could be extended by not more than one year.

45. Rule 10 of the Rules of 2002 taken cumulatively, therefore makes it explicit that a direct recruitee to the post of DSP during probation will have to complete the training and pass the final examination on its conclusion. The concept of probation and training, therefore, are interlinked such that the successful completion of training is indispensable for successful completion of probation under the Rules of 2002.

46. There is a distinct purpose to be achieved by providing for successful completion of training. Unless a person has completed the period of training, he cannot be expected to satisfactorily perform the duties attached to the post of DSP. The efficiency in service is likely to be compromised if a DSP is confirmed in service without undergoing requisite training. The period of probation, therefore, has to be utilized substantially for satisfactory

completion of training. There appears to be no infirmity in such Scheme contained in the Rules of 2002. Ordinarily a probationer would be expected to satisfactorily pass the final examination consequent upon his training or else his services are otherwise liable to be dispensed with under the Rules of 2002. Because period of probation includes satisfactory completion of training and clearance of final test thereafter, as such, confirmation in service cannot be automatic on completion of the period of probation or its extended term of one year.

47. The concept of deemed confirmation on completion of the maximum term of probation cannot be countenanced in the Scheme of the recruitment Rules of 2002, in the context of DSP appointed in the sports quota.

48. Law by now is well-settled that confirmation cannot be automatic on completion of probation unless the statutory rules so specified. {See:- Chairman and Managing Director, BHEL v. Vijay Kumar D, 2022 (15) SCC 792; Durgabai Deshmukh Memorial Sr. Sec. School & Anr v. J.A.J. Vasu Sena & Anr, 2019(17) SCC 157; Khazia Mohammed Muzammil v. The State of Karnataka and another, 2010 (8) SCC 155}. In the Rules of 2002 there exists no provision for automatic confirmation of a probationer.

49. Coming to the aspect of inconsistency between Rule 10 and 12 of the Rules of 2002, we find that the term ‘Seniority’ has been used in two different contexts in Rule 10 and 12. It is well-settled that same expression in a Rule may convey two different meanings, depending upon the context in which such term is used. {See:- Renaissance Hotel Holdings Inc v. B.

Vijaya Sai and Others, 2022 SCC Online SC 61; Gujarat Urja Vikas Nigam Limited v. Amit Gupta and Others, (2021) 7 SCC 209}.

50. The term ‘Seniority’ used in Rule 10(a) of the Rules of 2002 refers to seniority in the line of appointment at the time of initial appointment to the post on probation. It is distinct from the seniority referred in Rule 12 of the Rules of 2002 which is dependent upon confirmation in service. For the purposes of confirmation under Rule 10(a) of the Rules of 2002, what is required is that the member of service has satisfactorily completed his training; has passed final examination at the end of his period of training; is otherwise entitled to it on the basis of his seniority in the line of appointment at the time of probation and availability of vacant permanent post/seat. This scheme under the Rules of 2002 for confirmation appears to be consistent with the job requirement for the post and is otherwise not irrational or arbitrary.

51. It is only when a member of service has been confirmed under Rule 10(a) that his seniority shall be determined with reference to the date of his confirmation in service as per Rule 12 of the Rules of 2002.

52. Analyzing the Scheme of Rules of 2002, as enumerated above, we do not find any inconsistency between Rule 10 and 12. The Rules are otherwise not shown to be manifestly arbitrary or contrary to each other.

53. The rule-making power exercised under the proviso to Article 309 of the Constitution of India has been held to be legislative in character and unless it is shown to be inconsistent with Articles 14 and 16 of the Constitution of India, it would not require interference. In P Murugesan v. State of Tamil Nadu, 1993(2) SCC 340 the Supreme Court has held so in following words:-

“...Secondly as explained hereinbefore there would be no justification in principle for holding that the rule-making authority has only two options namely either to bar the diploma-holders altogether from promotion or to allow them equal opportunity with the graduate engineers in the matter of promotion. It must be remembered that the power of rule-making under the proviso to Article 309 has been held to be legislative in character. (Vadera-AIR 1969 Supreme Court 118). If so, the test is whether such a restrictive view is permissible vis-a-vis a legislature. If not, it is equally impermissible in the case of the rule-making authority under the proviso of Article 309. The only test that such a rule has to pass is that of Article 14 and 16 and to that aspect we may turn now....”

54. The Division Bench of Himachal Pradesh High Court in **HP Officers Architect Association v. State of Himachal Pradesh, 2012 (30) SCT 306**, following the judgment in ***P Murugesan (supra)***, has also taken a similar view:-

“...If the employer does so, then the Court cannot and should not set aside these amendments only because it feels that the amendments are unreasonable or harsh to one side. The only ground on which these statutory rules which have the force of law can be struck down are that they are ultra vires or the rules have been framed for mala fide reasons. We do not find any such circumstance in the present case. Therefore, the challenge to the rules is negated....”

55. In the facts of the instant case, what is observed is that the petitioners in the first writ could not complete their training within the period of two years in terms of Rule 10(a) of the Rules of 2002 not under the extended period of one year under its proviso. Ordinarily, in such circumstances, the State would have been entitled to consider the question of

continuance of such probationer in service. This is not what is done by the State and rightly so, for reasons enumerated hereinafter.

56. The petitioners in the first petition are persons of outstanding merit in the field of sports and were performing at different events of National or International repute for the State of Haryana or the country. The State has consequently taken a decision to retain them in service. The State was cognizant of the fact that one of the reason for delay is completion of training may have been the fact that petitioners were participating at different forum representing the State or the nation. For such purposes, the State has invoked its power ostensibly under Rule 18 of the Rules of 2002. Confirmation orders have been passed in respect of the petitioners in the first writ on 23.11.2023, granting confirmation to the petitioners from the date of their satisfactory completion of training. In our view, training was an essential part to be completed by the probationers before they could be confirmed on the post of DSP. The State in our view has acted reasonably in granting the benefit of confirmation to the petitioners in first writ from the date of their satisfactory completion of training.

57. The mere fact that the petitioners in second writ though were appointed later, as probationer, but on account of their satisfactory completion of training earlier have been granted confirmation before the petitioners of first writ does not result in any illegal or arbitrary situation. The grant of confirmation to petitioners of second writ before the petitioners in the first writ therefore cannot be treated to be arbitrary or illegal.

58. Where the Court is pitted with conflicting interest between the employees and the employer and such interest are governed by Rules, the Court has to pay due regard to both the interest in light of the statutory rule

itself. Considerations germane to the efficiency in service and job requirement would have to be necessarily factored in it.

59. In **Ram Sharan v. The Dy. Inspector General of Police, Ajmer,** **AIR 1964 Supreme Court 1559**, the three tier system introduced in the police force resulted in some differential treatment in the case of promotions to the higher ranks. The argument about the system being violative of Article 16 was dealt with by the Supreme Court in the following words:-

“But it is urged that this has to be balanced against considerations of efficiency which have led to the evolving of the three tier system of promotion already referred to and therefore the system should not be struck down, simply because at times it may happen that a Junior Head Constable may get promotion while a senior Head Constable in another range may have to wait. Balancing the various considerations mentioned above therefore it seems to us that the system in force in the State of Rajasthan evolved as it has been for the efficiency of the police in the State as well as for administrative convenience cannot be said of itself to deny equality before the law or to deny equality in the matter of employment in public service, even though at times it may happen, because of the system that a junior Head Constable in one range may get promotion as officiating Sub-Inspector while in another range a senior Head Constable may have to wait for some time. We are therefore not prepared to strike down this system as denying equality before the law or denying equality in the matter of employment in the public service, simply on the ground of these possible cases of hardship.”

(Emphasis supplied by us)

60. In service jurisprudence, the applicable Service Rules play an important role in determining the question of confirmation and seniority of a member of service. The consequences flowing from the applicability of Rules

ordinarily cannot be taken exception to once it is found that the rules are *intravires* and its provisions are otherwise reasonable and intended to secure efficiency in service and for its proper administration.

61. In light of the analysis aforesaid, we are of the considered view that the action of the State in granting benefit of confirmation to petitioners in first writ from the date of their successful completion of training is just, legal and fair. The consequential determination of seniority also merits no interference.

62. Coming to the argument of Mr. Patwalia that seniority has to be reckoned from the date of initial appointment and confirmation in service shall relate back, we may observe that ordinarily, it would be the situation where the recruitment itself is made in accordance with the Rules, and such course is otherwise reflected from the Scheme of the Rules.

63. In **V. Vincent Velankanni** (*supra*), the Supreme Court has clearly held as under:-

“29. The primary issue which requires adjudication is as to whether the seniority of the appellant is to be reckoned from the date of induction/initial appointment or as per the date of promotion/confirmation in the skilled grade.

30. It is a well-settled proposition that once an incumbent is appointed to a post according to the rules, his seniority has to be reckoned from the date of the Initial appointment and not according to the date of confirmation, unless the rules provide otherwise.

31. In the case of L. Chandrakishore Singh v. State of Manipur, this Court held that in cases of probationary or officiating appointments which are followed by a confirmation, unless a contrary rule is shown, the services rendered as the officiating

appointment or on probation cannot be ignored while reckoning the length of service for determining the position in the seniority list. This view has been reiterated in the case of Ajit Kumar Rath v. State of Orissa.

32. The Constitution Bench of this Court In Direct Recruit Class II Engg Officers' Assn. (supra) stated the legal position with regard to inter se seniority of direct recruits and promotees and while doing so, inter alia, it was held that once an Incumbent is appointed to a post according to rules, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation.

33. This Court summarised the legal principles with regard to the determination of seniority in Pawan Pratap Singh v. Reevan Singh in the following terms:

45. From the above, the legal position with regard to determination of seniority service can be summarised as follows:

(i) The effective date of selection has to be understood in the context of the service rules under which the appointment is made. It may mean the date on which the process of selection starts with the issuance of advertisement or the factum of preparation of the select list, as the case may be.

(ii) Inter se seniority in a particular service has to be determined as per the service rules. The date of entry in a particular service or the date of substantive appointment is the safest criterion for fixing seniority Inter se between one officer or the other or between one group of officers and the other recruited from different sources. Any departure therefrom In the statutory rules, executive Instructions or otherwise must be consistent with the requirements of Articles 14 and 16 of the Constitution.

(iii) Ordinarily, notional seniority may not be granted from the backdate and If It Is done, It must be based on objective considerations and on a valid classification and must be traceable to the statutory rules.

(iv) The seniority cannot be reckoned from the date of occurrence of the vacancy and cannot be given retrospectively unless it is so expressly provided by the relevant service rules. It is so because seniority cannot be given on retrospective basis when an employee has not even been borne In the cadre and by doing so it may adversely affect the employees who have been appointed validly in the meantime.

34. Thus, it is trite that when an employee completes the probation period and is confirmed in service albeit with some delay, the confirmation In service shall relate back to the date of the Initial appointment. Any departure from this principle in the form of statutory rules, executive instructions or otherwise must be consistent with the requirements of Articles 14 and 16 of the Constitution of India.

(Emphasis supplied by us)

64. The principle canvassed by Mr. Patwalia that seniority is to be reckoned from the date of induction/initial appointment is subject to the appointment being made as per the Rules and departure being consistent with Article 14 and 16 of the Constitution of India. The principle of law laid down by the Supreme Court emphasizes that the ‘principle of seniority’ to be reckoned from the date of initial appointment or confirmation in service to relate back to such initial appointment are subject to appointment itself being made according to the Rules. This is, however, not the fact here. Admittedly, the petitioners have not been appointed in accordance with the Rules.

65. The second exception to the principle is the Scheme contained in the Rules itself if it is in consonance with Article 14 and 16 of the

Constitution of India. In the facts of the present case, the statutory Scheme contained in the Rules do not suggest either in explicit terms or even by necessary implication that seniority is to be reckoned from the date of initial appointment or that the confirmation in service shall relate back notwithstanding the fact that the probationer has not satisfactorily completed his probation and passed the final examination thereafter. We are, therefore, of the view that in the facts of the present case, the principles relied upon on behalf of the petitioners do not come to the aid of the petitioners nor such submission can be sustained in law in the light of the applicable Rules which are otherwise held to be *intravires*.

66. The judgment in **V Vincent Velankanni (supra)** refers to the previous judgments of the Supreme Court in the case of **L Chandrakishore Singh (supra)** and **Direct Recruitment Class II Engineering Officers Association (supra)**, and therefore, these judgments relied upon by Shri Patwalia need not be separately referred to or dealt with. The rules of literal interpretation also do not advance the cause of petitioners in the context of the observations made above.

67. The submission raised on behalf of first set of petitioners that they are being discriminated *qua* petitioners of second set cannot be accepted as we find that both the set of petitioners constitute separate and distinct class. So far as petitioners in first writ is concerned, they have not been appointed on the strength of their merit in the recruitment test as per recruitment Rules of 2002, rather, they have been appointed on account of their exceptional merit in the field of sports. The petitioners in the second set, however, are persons who have secured appointment on the strength of their merit in the recruitment examination, and have also completed their training

earlier in point of time. These two sets of petitioners, therefore, cannot be placed on the same footing nor the 'principle of equality' can be pressed against each other. It is, by now, well-settled that equality has varied dimensions. In **Dev Gupta v. PEC University of Technology and Ors.**, SLP (Civil) No.15774-2023, the Supreme Court has observed as under:-

“14. It is now entrenched in our constitutional jurisprudence, that the doctrine of equality has varied- and layered dimensions, one of which is that under Article 14, “Equals must be treated equally. Unequals must not be treated equally. What constitutes reasonable classification must depend upon the facts of each case, the context provided by the statute, the existence of intelligible differentia which has led to the grouping of the persons or things as a class and the leaving out of those who do not share the intelligible differentia. No doubt it must bear rational nexus to the objects sought to be achieved.” (Ref Manish Kumar v Union of India (UOI) & Ors).”

68. In ***High Court of Madhya Pradesh through Registrar (supra)***, the Supreme Court has rejected the plea of deemed confirmation relying upon the requirement of Rule 24 of the Rules which required satisfactory completion of training for confirmation of probationer in paragraphs No.10 and 11 of the judgment, which are reproduced:-

“10. To appreciate the point in issue, it would be useful to refer to Rule 24 of the Rules which runs thus:

"24. (1) Every candidate appointed to the cadre shall undergo training for a period of six months before he is appointed on probation for a period of two years, which period may be extended for a further period not exceeding two years. The probationers may at the end of period of their probation, be confirmed subject to their fitness for confirmation and to having passed, by the higher

standard, all such departmental examinations as may be prescribed.

(2) During the period of probation, he shall be required to do magisterial work and acquire experience in office routine and procedure.

(3) If during the period of probation he has not passed the prescribed departmental examinations, or has been found otherwise unsuitable service, the Governor may, AT ANY TIME, THEREAFTER, dispense with his services.”

11. *The question of deemed confirmation in service jurisprudence, which is dependent upon the language of the relevant service rules, has been the subject matter of consideration before this Court, times without number in various decisions and there are three lines of cases on this point. One line of cases is where in the service rules or in the letter of appointment a period of probation is specified and power to extend the same is also conferred upon the authority without prescribing any maximum period of probation and if the officer is continued beyond the prescribed or extended period, he cannot be deemed to be conformed. In such cases there is no bar against termination at any point of time after expiry of the period of probation. The other line of cases is that where while there is a provision in the rules for initial probation and extension thereof, a maximum period for such extension is also provided beyond which it is not permissible to extend probation. The interference in such cases is that the officer concerned is deemed to have been confirmed upon expiry of the maximum period of probation in case before its expiry the order of termination has not been passed. The last line of cases is where, though under the rules maximum period of probation is prescribed, but the same requires a specific act on the part of the employer by issuing an order of confirmation and of passing a test for the purposes of confirmation. In such cases, even if the*

maximum period of probation has expired and neither any order of confirmation has been passed nor has the person concerned passed the requisite test, he cannot be deemed to have been confirmed merely because the said period has expired.

(emphasis supplied by us)

69. In view of the analysis and deliberations held in the matter, we are of the considered view that Rule 10 and 12 of the Rules of 2002 are not inconsistent to each other and are otherwise valid piece of legislation which are not shown to be violative of Articles 14 and 16 of the Constitution of India. Challenge laid to these two Rules in the first petition, therefore fails.

70. The consequential determination of seniority based on confirmation of petitioners in the first set from the date of their satisfactory completion of training, also merits no interference. The first writ petition accordingly fails and is dismissed.

71. The second petition of the petitioners who have been granted the benefit of confirmation over and above the petitioners in the first petition, therefore, must succeed and is consequently allowed.

72. No orders as to costs.

73. All pending misc. application(s), if any, also stand disposed of.

74. Interim order stands discharged.

75. A photocopy of this order be placed on the file of connected case.

{ASHWANI KUMAR MISHRA}
JUDGE

{ROHIT KAPOOR}
JUDGE

15.09.2025

rajesh/rahul

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No