

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104

CWP-335-2017 (O&M)
DECIDED ON: 13.11.2025

SANJIT SINGH AND ORS.

.....PETITIONER(S)

VERSUS

UNION OF INDIA AND ORS

.....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Pawan K. Sharma, Advocate
for the petitioners.

Ms. Anita Balyan, Advocate for the respondents

SANDEEP MOUDGIL, J

Relief Sought

1. The jurisdiction of this Court has been invoked under articles 226/227 of the constitution of India for issuance of writ order or direction for setting aside the impugned order dated 14.01.2016(Annexure P-32) and reply to. the legal notice dated 22.03.2016 vide which the claim of the petitioners to protect their seniority in select list 'C' at par with their junior counterpart on the basis of standing order 1/92 dated 22.07.1992(Annexure P-1) vide which respondent No.3, has granted the benefit of seniority to similarly situated employees vide order dated 14.10.2012 (Annexure p-6), 19.11.2012(Annexure P-7), 01.01.2013 (Annexure P-8) and 10.10.2014(Annexure P-24 to P-27), being discriminatory, arbitrary, and ITBP service rules with a further prayer to direct the Respondents to Re-fix the seniority, date of promotion, ACP financial up-gradation by brining the petitioner select list 'C-2003' at par with their junior counterpart on the basis of standing order 1/92 dated

22.07.1992(Annexure P-1) interest @ 12% p.a. along with entire consequential benefits w.e.f. respective dates of their completion of 10/20 years of Service, already granted to the other similarly situated employees w.e.f. 09.08.1999.

Brief facts

2. The petitioners were appointed as Constables (GD) in the Indo-Tibetan Border Police (ITBP) during the years 1987–1989. While remaining under the command and control of ITBP, they were sent on deputation to Delhi Police from 2001 to 2005 and were thereafter repatriated to ITBP. During the period of deputation, departmental promotional courses/tests, namely JCC/PPSLC, were conducted in 2002–2003, in which several similarly situated personnel recruited along with or junior to the petitioners were benefited. The petitioners, however, were never informed or intimated about the conduct of such courses either by ITBP or by Delhi Police. Subsequent inquiries made by the respondent department from Delhi Police confirmed that no record was available to show that the petitioners were ever informed or that they had expressed unwillingness to appear in the said promotional tests, a fact which has also been admitted by the respondent department in its impugned order dated 14.01.2016.

3. After their repatriation, the petitioners qualified the requisite JCC/PPSLC courses in their first attempt from time to time and were placed in Select List 'C'. As per Standing Order No. 1/92 dated 22.07.1992, the seniority of personnel who could not attend promotional courses due to unavoidable force commitments is required to be protected, subject to qualifying the course in the first attempt. The respondent department has extended the benefit of this Standing Order to several similarly situated

employees, including juniors and even those who were on deputation, leave, or other assignments, and has granted them protected seniority, promotions, ACP benefits, and consequential financial advantages. However, despite recommendations from sector headquarters, repeated representations, legal notices, and even directions issued by this Court in earlier proceedings, the petitioners have been denied similar relief on a pick-and-choose basis.

4. As a result, juniors recruited after the petitioners have been promoted and granted higher pay scales, compelling the petitioners to work under their control. Aggrieved by same, the petitioner has preferred petition.

Contentions

On behalf of the petitioner

5. Learned counsel for the petitioners submits that during their deputation to Delhi Police, the petitioners remained under the control of ITBP and were never informed about the JCC/PPSLC promotional courses held in 2002–2003, a fact acknowledged by the respondents in the impugned order dated 14.01.2016 and after repatriation, the petitioners successfully completed the requisite courses on the first attempt and were placed in Select List 'C'.

6. It is further contended that under Standing Order No.1/92 dated 22.07.1992, the seniority of personnel unable to attend promotional courses due to unavoidable circumstances is to be protected. While the respondents have granted this benefit to several similarly placed and junior employees, including those on deputation, the petitioners were arbitrarily denied the same, indicating a selective and inconsistent approach.

7. Learned counsel argues that such denial has resulted in junior employees being promoted and granted higher pay scales over the petitioners solely due to administrative lapses on the part of the respondents, which is

discriminatory, and violative of Articles 14 and 16 of the Constitution and above-all despite repeated representations, legal notices, and directions from this Court, the petitioners' claims were rejected mechanically without proper consideration.

8. While folding up the submissions, he sought to accept this petition to the effect that the petitioners are entitled to protection of seniority, promotion, ACP upgradation, and all consequential benefits from the date their juniors were promoted, including arrears, as the impugned action is arbitrary.

On behalf of respondent/UOI

9. Learned counsel for the respondents/Union of India submits that the petition filed for protection of seniority in Select List 'C' and related benefits is without merit. He would argue that the petitioners, while on deputation to Delhi Police from 2001 to 2005, were duly informed about the pre-promotional courses, including the PPS LC/C List tests, through official communications from ITBP via Delhi Police. Records annexed as R-1 (Colly) confirm that the petitioners chose not to attend the courses during their deputation, reflecting their decision to remain in their deputed positions rather than pursue promotion.

10. It is further asserted on behalf of the respondents/UOI that Standing Order No. 1/92 protects seniority only for personnel who could not attend the required courses due to administrative reasons and who subsequently qualify the courses on first attempt after repatriation and now the petitioners, having been informed of the courses but not participating, cannot claim seniority protection after more than a decade. Judicial precedents, including WP(C) No. 2216/2010 (Kuldeep Kumar) and WP 9434/2015

(Prakash Chandra Singh), confirm that personnel aware of course schedules but choosing not to attend are not entitled to retrospective seniority benefits.

11. The respondents further contend that all similarly situated personnel whose seniority was protected had valid claims under Standing Order No. 1/92, as they were not informed due to administrative lapses and promptly sought seniority protection upon repatriation, whereas in fact, the petitioners were fully informed and did not act in time.

12. Ms. Anita Balyan concludes stating that accordingly, the departmental action is lawful and in accordance with rules, and the petitioners' claims are unfounded. The petition, therefore, deserves to be dismissed.

Analysis

13. This Court has considered the rival submissions advanced by learned counsel for the parties and has perused the pleadings and documents placed on record. The jurisdiction of this Court under Articles 226 and 227 of the Constitution of India is supervisory and discretionary in nature. It is a settled principle of law that this jurisdiction is not intended to re-appreciate factual disputes or substitute the administrative decision of the employer, unless the impugned action is shown to be arbitrary, mala fide, perverse, or in violation of statutory rules or constitutional guarantees. Matters relating to seniority and promotion fall primarily within the domain of the employer and judicial interference is warranted only in exceptional circumstances.

14. The core issue that arises for determination is whether the petitioners are entitled to protection of seniority in Select List 'C' along with retrospective promotion, ACP financial upgradation, and consequential monetary benefits under Standing Order No. 1/92 dated 22.07.1992, despite the respondents' contention that the petitioners were duly informed about the

promotional courses during their deputation period and failed to avail the opportunity.

15. The Standing Order No. 1/92 dated 22.07.1992 provides for protection of seniority only in cases where personnel are unable to attend the requisite promotional courses due to unavoidable administrative or force commitments, subject to the condition that such personnel qualify the course in the first attempt thereafter. The protection contemplated under the Standing Order is conditional in nature and does not confer an automatic or vested right. The employee must establish that the inability to attend the course was solely attributable to the department and not due to any voluntary omission or choice on his part.

16. In the present case, the respondents have placed on record official communications annexed as R-1 (Colly), which demonstrate that intimation regarding the JCC/PPSLC promotional courses was conveyed to the petitioners through proper channel while they were on deputation with Delhi Police. The petitioners admittedly did not participate in the said courses during that period. The mere absence of a written expression of unwillingness does not ipso facto lead to the conclusion that the petitioners were uninformed. Once due intimation is established, the responsibility shifts upon the employee to act upon such information. Failure to do so cannot be attributed to administrative lapse.

17. It is a settled principle of service jurisprudence that silence or inaction on the part of an employee, despite knowledge of available promotional avenues, operates against him. Stale claims relating to promotion

and seniority cannot be revived merely by making repeated representations and as even delay defeats equity.

18. The record further reveals that after repatriation, the petitioners accepted their placement in Select List 'C' and allowed the seniority lists and promotions of their juniors to attain finality. The present claim for retrospective seniority, promotion, and financial upgradation has been raised after an inordinate delay of more than 12 years. The law on delay and laches is well settled. In **P.S. Sadasivaswamy v. State of Tamil Nadu, (1975) 1 SCC 152**, the Supreme Court categorically held that challenges to seniority made after long delay ought not to be entertained, as they unsettle settled positions and disrupt administrative functioning. Relevant extract of the same is as follows:

“A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extra-ordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition should, therefore have been dismissed in limine. Entertaining such petitions is a waste of time of the court. It clogs the work of the Court and impedes the work of the court in considering legitimate grievances as also its normal work. We consider that the High court was right in dismissing the appellant's petition as well as the appeal.”

19. Moreover, the courts have been advised to exercise caution in interfering with seniority disputes raised after a considerable lapse of time and that settled seniority should not be disturbed except in exceptional circumstances.

20. The contention of the petitioners that denial of seniority protection violates Articles 14 and 16 of the Constitution of India is equally

devoid of merit as a claim of parity can be sustained only when the claimants are identically situated in all material respects. The respondents have satisfactorily explained that the benefit of Standing Order No. 1/92 was extended only to those personnel who were not informed of the courses due to administrative lapses and who promptly represented their cases upon repatriation.

21. However, the petitioners having been informed of the courses duly by the respondent vide letter issued in the year 2003 attached herein as Annexure R-1 and still having failed to act within reasonable time, cannot be treated as similarly situated with other employees.

22. The reliance placed by the respondents on the judgments in ***Kuldeep Kumar v. Union of India (WP(C) No. 2216/2010)*** and ***Prakash Chandra Singh v. Union of India (WP No. 9434/2015)*** enjoined in this writ petition as Annexure R-2 is well founded as in both cases, the High Court held that personnel who were aware of promotional courses but chose not to attend them are not entitled to retrospective seniority or promotion on the ground of parity. Thus, the ratio laid down therein squarely applies to the facts of the present case.

23. It is further well settled that promotion and ACP financial upgradation are not vested rights but are governed strictly by statutory rules, eligibility conditions, and availability of vacancies. Retrospective promotion with monetary benefits can be granted only when denial is attributable solely to the employer and the employee is completely blameless.

Conclusion

24. In view of the foregoing discussion, this Court is of the considered opinion that the petitioners have failed to establish any arbitrariness, illegality, or violation of constitutional or statutory provisions in the impugned order dated 14.01.2016 (Annexure P-32). The benefit of Standing Order No. 1/92 (Annexure P-1) is not attracted to the facts of the present case, and the petition is barred by delay, acquiescence, and settled seniority.

25. Consequently, no ground is made out for interference under Articles 226 and 227 of the Constitution of India. The writ petition is accordingly dismissed. There shall be no order as to costs.

(SANDEEP MOUDGIL)
JUDGE

13.11.2025

Meenu

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|---------------------------------|---------|
| 1. Whether speaking/ reasoned : | Yes /No |
| 2. Whether reportable : | Yes /No |