

CWP-24263-2021
CWP-2156-2024

1

2025-PHHC-018746



108+217

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

1) CWP-24263-2021 (O&M)
Reserved on 07.02.2025
Pronounced on 13.02.2025

JAGDISH AND OTHERS Petitioners

Versus

STATE OF HARYANA AND OTHERS Respondents

2) CWP-2156-2024

JITENDER SINGH AND OTHERSPetitioners

Versus

STATE OF HARYANA AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Akshay Bhan, Senior Advocate with
Mr. Amandeep Singh Talwar, Advocate,
Mr. Abhijeet Singh Rawaley, Advocate and
Mr. G.S. Gopera, Advocate for the petitioners
(in CWP-24263-2021)

Mr. Sunil Nehra, Advocate,
Mr. Rahil Mahajan, Advocate,
Mr. Viren Nehra, Advocate,
Mr. Arjun Dosanj, Advocate and
Mr. Akash Gahlawat, Advocate for the petitioners
(in CWP-2156-2024)

Ms. Palika Monga, Deputy Advocate General, Haryana

Mr. R.K. Malik, Senior Advocate with
Dr. Suresh Kumar Redu, Advocate and
Mr. Ankur Sheoran, Advocate for respondent Nos.5 to 9
(in CWP-24263-2021)

Mr. Pawan Singh, Advocate for respondent Nos.18 to 26
(in CWP-24263-2021)



JAGMOHAN BANSAL, J.

1. By this common order CWP-24263-2021 and CWP-2156-2024 are disposed of since issues involved in the above captioned petitions and prayer sought are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-24263-2021.

2. The petitioners through instant petition under Articles 226/227 of the Constitution of India are assailing order dated 15.07.2021 (Annexure P-23) whereby respondent has declined their request to include them in List-F alongwith Sub-Inspectors of other wings of the State Police.

3. The petitioners joined Indian Reserved Battalion (for short 'IRB') during 2001-2011 which was constituted by State Government in view of communication dated 18.07.2001 (Annexure P-1) of the Ministry of Home Affairs. The Governor of the State notified strength of the members of the force. As per said notification, there was one post of Commandant, three posts of Assistant Commandant and seven posts of DSP apart from other posts of lower ranks. The petitioners during preceding years came to be promoted to the rank of Head Constable, ASI and Sub Inspector. They were permitted to undergo Lower School, Intermediate School and Upper School Course alongwith members of District Police Force. The respondent is maintaining seniority at District or Range level up to the rank of Sub Inspector whereas seniority of Inspector is maintained at State level. The petitioners till the rank of Sub Inspector were promoted in their own strength and now are eligible for promotion to the rank of Inspector alongwith District Police.



4. The petitioners served legal notice dated 15.03.2021 (Annexure P-19) upon the respondent claiming that they should be treated at par with other Sub-Inspectors for the purpose of promotion to the rank of Inspector. They preferred CWP No.7923 of 2021 before this Court which was disposed of vide order dated 08.04.2021. The said order reads as:

“Learned counsel for the petitioners very fairly concedes that as of now no orders causing prejudice to the petitioners have been passed, though, they only have an apprehension that the relief for which they are entitled for will not be granted.

This Court cannot grant any relief on the basis of apprehensions.

Faced with this situation, learned counsel for the petitioners submits that he be allowed to withdraw this writ petition with liberty to file a fresh one on the same cause of action as and when, any order, which causes prejudice to the petitioners is passed by the respondents.

Ordered accordingly.”

5. The respondent addressed aforesaid legal notice vide impugned order dated 15.07.2021. The respondent has rejected claim of the petitioners which led to instant petition.

6. Mr. Akshay Bhan, Senior Counsel for the petitioners submits that respondent has recognized four cadres namely General Cadre, Railway Police Force, Haryana Armed Police (for short ‘HAP’) and Haryana Police Commando. As per Punjab Police Rules (for short ‘PPR’) which are applicable to State of Haryana, there are two cadres i.e. District Police and Railway Police. Haryana Armed Police and Commando are not contemplated by Punjab Police Rules, thus, they are at par with petitioners.



The respondent for the purpose of promotion to the rank of Inspector is including HAP as well as Commando whereas petitioners are excluded. It amounts to discrimination and violation of Article 14 of the Constitution of India.

The petitioners were sent for Lower School, Intermediate School and Upper School Course alongwith members of District Police and other cadres. As they were sent alongwith other officials for Lower, Intermediate and Upper School Course, they are eligible to be considered for the rank of Inspector alongwith other cadres.

There are no separate Rules governing service of the petitioners and at the time of their appointment, they were issued appointment letter under PPR. In the appointment letter, it was categorically jotted down that they are Police Officers in terms of Punjab Police Rules and carry all powers which are vested in Police Officers. As in the appointment letter, it was specifically jotted down that they are governed by Police Act, 1861 read with Punjab Police Rules, thus, for all intent and purposes they are Police Officers and cannot be treated as a separate strength. The State Government from time to time increased sanctioned strength of DSPs. The Government included strength of DSPs of IRB while increasing strength of DSPs.

7. *Per contra*, Ms. Palika Monga, DAG, Haryana submits that petitioners are part of IRB which was constituted in terms of instructions of Government of India. The cost of the Battalion was borne by Government of India by way of grant (50%) and interest free loan (50%). The members of IRB at the first call are available for Union of India, meaning thereby, Union of India has first right over the Battalion. The members are not posted in Districts like other Police Officers. They were time to time promoted in



their own strength. Few Sub Inspectors have been promoted in their own strength. They were not promoted alongwith District Police. There are few petitioners who have already been promoted in their own strength. There are no separate Rules till date governing service of members of IRB, thus, State has applied PPR. The petitioners cannot be treated as part of ordinary Haryana Police Force. Their appointment is made by the Board which consists of a member of Central Para Military Forces. Their training is different from training of normal Police Force. They get nine months additional training with Central Armed Forces.

8. Mr. R.K. Malik, Senior Advocate and Dr. Suresh Kumar Redu, Advocate submit that at present there are four battalions comprising of 52 sanctioned posts of Inspector. All the posts are occupied by members of IRB. They were promoted from the post of Sub-Inspector. No seat of Inspector has been occupied by other wings of the Haryana Police. Had the petitioner not been permitted to occupy seats of Inspector of their own strength, there were all possibilities that most of the seats might have been occupied by members of other cadres. The petitioners remained silent till all the posts of Inspectors in their strength were occupied by them and now they want to merge with other wings of the State Police. It would deprive other members of the Police from their valuable right of promotion.

9. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

10. From the arguments of both sides and perusal of record, the conceded position emerging from the record is that IRB was ordered to be constituted by Central Government. The State Government in



compliance of directions of UOI constituted one battalion of IRB. At present there are four battalions and at the time of raising of every battalion, there was order by the UOI. 100% cost of establishment was borne by UOI. 50% was by way of grant and 50% by way of interest free loan. Running expenses are borne by the State Government. The Central Government has first right to depute the battalion. The members of the battalion may be posted across the country. One representative of the Central Government is available while making selection of members of the battalion. The Governor while constituting battalion has sanctioned strength comprising of different ranks including rank of Inspector and Deputy Superintendent of Police. The initial appointment in the battalion was on the rank of Constable. No member of the battalion was directly appointed on the post of Head Constable, Assistant Sub-Inspector, Sub-Inspector or Inspector. The members of the battalion got nine months additional training unlike normal police officials. The additional training was granted by Central Armed Forces of the country. The members of the force have been promoted from the post of Constable to Inspector and all the promotions have been made in their own strength. Till date neither any member of any other wing of the State Police has occupied strength of IRB nor any member of IRB has occupied permanent sanctioned post of other wings. There is no dispute with respect to promotion till the rank of Sub-Inspector. The dispute has erupted for the post of Inspector. The State Government with respect to other wings has maintained seniority range wise till the rank of Sub-Inspector and there is common seniority list for the purpose of rank of Inspector.

11. The petitioners are primarily claiming that they are governed



by Punjab Police Rules and their appointment was made in terms of Punjab Police Act, thus, they are as good police officials as other members of other wings of the Haryana Police. They were deputed for lower, intermediate and upper school course along with other members of the District Police Force. No discrimination was made at the time of imparting training for lower, intermediate and upper school course. The respondent promoted all the members of IRB to higher ranks as per Punjab Police Rules, thus, there is no reason to deny to merge them for the rank of Inspector like other cadres are merged. The State Government has created Haryana Armed Police as well as Haryana Police Commando. Both the cadres are not contemplated by Punjab Police Act, 1861, Haryana Police Act, 2007 (for short, '2007 Act') and Punjab Police Rules. As per Punjab Police Rules, there are two cadres i.e. District Police and GRP. The respondent for the purpose of assigning rank of Inspector has treated HAP & Commando at par with District Police, thus, there is no reason to deny benefit of promotion to petitioners. They for all intent and purposes are at par with HAP and Commando.

12. The argument of respondent is that IRB was created on the instructions of Central Government. The cost of establishment was borne by Central Government. The first right over the force is of the Central Government. If at any stage there is requirement by Central Government, the State Government has no say. The members of IRB are bound to be deployed out of the State. They at the time of recruitment were extended training by Central Armed Forces and as per their training they were trained to be deputed across the country. They have also been trained for the purpose of fighting with terrorists. They have never been posted in



District Police Stations and they have never worked as Investigating Officers. The post of Deputy Superintendent of Police is a supervisory post and is governed by Haryana Police Service Rules. As soon as a person is promoted as Deputy Superintendent of Police, he becomes part of common cadre and can be deputed anywhere. Incharge of every company is an Inspector so post of Inspector cannot be treated at par with Deputy Superintendent of Police.

13. From the perusal of record and the arguments of both sides, it is evident that State Government created IRB at the desire and direction of the Central Government which after getting sanction from President had asked the State Government to raise IRB. Communication dated 18.07.2001 of the Central Government is reproduced as below:

*“No.11-27011/102/2000-PF.II (iii).
Government of India
Ministry of Home Affairs*

*.....
New Delhi the 18th July, 2001.*

To

*The Chief Minister
Government of Haryana,
Chandigarh.*

Subject:- Raising of India Reserve Bn by Government of Haryana.

Sir,

I am directed to convey the sanction of the President for raising of one IR Bn by Government of Haryana. The standard cost for raising of this IR Bn not exceeding an amount of Rs.13,00,00,000/-(Rupees Thirteen crores only) will be reimbursed by the Central Government. The condition of reimbursement of initial raising cost and other guidelines for raising of the one IR Bn are indicated below: -



(a) Under the scheme of India Reserve (IR) Battalions, the Government of India meets the standard cost of raising of IR Bn. By way of 50% grant and 50% long term interest free loan to the State Government subject to actuals. The Bn is required to be raised broadly on the pattern fixed by the Government of India. The standard pattern, authorization of transport and wireless equipment, Arms and Ammunition etc. is enclosed us Annexure -- I & II.

(b) As far as the State Government is concerned, in addition to the annual recurring expenditure for this IR Bn, the State has to incur Capital expenditure for providing the basic infrastructure to the Bn. The expenditure on the Bn after initial raising is borne by the State Government However, if the Bn is deployed ex-state, the expenditure is borne by the borrowing State. When Bn. Is deployed in any of the exempted category States, expenditure is borne by the Central Government. When the Bn remains un-deployed as reserve for Central Government, the expenditure is borne by the Central Government. In all other situations, the State Government concerned meets the expenditure on the India Reserve Bns.

(c) During 1999, this Ministry had circulated a syllabus of basic training of IR Bn devised by Bureau of Police Research and Development (copy enclosed at Annexure-III). The training of the IR Bn. Accordingly has to be based on the model training syllabus in order to make these IR Bn. Operationally effective as and when deployed outside their parent state.

(d) Recruitment of personnel for the India Reserve Bus [sic] would be made by constitution of selection



board on regional basis within the State. One representative of the CPMFs not below the level of Commandant will be a member on the selection board. This member would be nominated by the Ministry of Home Affairs. The State Government should request in advance to the Ministry of Home Affairs prior to initiating the recruitment process, for nominating a suitable member for the selection board.

2. *The Government of India would exercise the right of first call on this hidden Reserve Bn. This means that Government of India would have full authority to ask the State Government to make the Bn available for deployment elsewhere in the country as and when required. The State Government would be bound by such guidelines and instructions as may be issued by the Central Government from time to time on this behalf.*

3. *Since the Bn may be required to serve anywhere in the country, the State Government would, at the time of recruitment and training, take care to ensure that the Bn has a cosmopolitan character and is suitably oriented.*

4. *The conditions as laid down above for raising of the IR Bn should be scrupulously adhered to. Any deviation without the specific approval of Ministry of Home Affairs, would result in stoppage of further release of the initial raising cost under the scheme. The Central Government, at any point of time, during the raising of the Bn may audit the process of raising, training etc.*

5. *This issues with the concurrence of Ministry of Finance vide their I.D. No.894/E-Coord/2001 dated 3.7.2001 and IFD, vide their Dy. No.1293/Fin.III/2001 dated 16.7.2001.*

Yours faithfully,

Sd/-

(Sisir Das)

Under Secretary to the Govt. of India
Tel.No.3012214”



In view of above-noted communication, the cost of establishment of the Battalion was borne by the Central Government and annual cost has to be borne by the State Government. The Central Government has first right to depute the force across the country. The State Government cannot depute members of the force contrary to desire of the Central Government. In case of absence of need of Central Government, the State Government has absolute control over the force.

14. The State Government in view of instructions of Central Government vide order dated 28.09.2001 raised one battalion. The order dated 28.09.2001 is reproduced as below:

“From

The Financial Commissioner & Secretary
To Govt. Haryana Home Department

To

The Director General of Police,
Haryana, Chandigarh.
Memo No.16/31/2001-4HGI.
Dated, Chandigarh the 28.09.2001

Subject:- Raising of India Reserve Battalion for the State of Haryana.

Reference your letter No.788/Acctts-2, Dated 26.08.2001 on the subject noted above.

2. The Governor of Haryana is pleased to create one India Reserve Battalion in Haryana State on the terms and conditions mentioned in Govt. of India letter No.II-270/102-2000-PF.II(iii) dated 18.07.2001.

3. The Governor of Haryana is further pleased to sanction the xxxx Staff/Arms an Ammunition/xxxxx/Wireless equipment etc. as under:-

Executive Staff	Ministerial Staff	Wireless Staff	Medical Staff
Commandant 1 (Rs.10000-15200)	Head Clerk 1 (supdt) (Rs.6500-10500)	Inspector 1 (Rs.6500-9900)	Medical Officer 1 (Rs.8000-13500)
Asstt. Commandant 3 (Rs.10000-15200)	Clerk 5 (Rs.3050-4590)	S.I. 2 (Rs. 5500-9000)	Pharmacist 2 (Rs. 5000-7850)
Deputy SPs 7 (Rs.8000-13500)	Steno 1 Rs.3050-4590)	Constable 26 (Rs.3050-5325)	Nursing Asstt. 1 (Rs.4500-6000)



Inspector 7 (Rs.6500-9900)		Head Const. 4 (Rs.4000-6000)	
S.I. 23 (Rs.5500-9900)			
ASI 18 (Rs.1450-6000)			
Head Const. 160 (Rs.4000-6000)			
Xxxxx 675 (Rs.xxxxxxx)			
W/C xxxx 15 (Rs.2550-3200)			
Sweepers 15 (Rs.2550-3200)			
Cooks 24 (Rs.2610-3540)			
Dhobis 8 (Rs.2610-3540)			
Barbers 7 (Rs.2610-3540)			
Total: 936	7	33	4

From the reading of above order, it is lucid that at the time of raising force, Governor sanctioned multiple posts which included rank of Constable to Commandant. The post of Commandant is occupied by an IPS Officer. The respondent at the time of raising force made appointment of Constables. In the appointment letters of the petitioners, Police Act, 1861 and PPR were noticed. One appointment letter is reproduced as below:

“APPOINTMENT ORDER
CATEGORY BC-B.
SHRI PARVEEN KUMAR S/O SHRI MANGU RAM
CASTE SAINI R/O ISMAILABAD POST OFFICE
ISMAILABAD POLICE STATION ISMAILABAD DISTRICT KKR.

STATE HARYANA WHOSE PHYSICAL STANDARD AND
EDUCATIONAL QUALIFICATION ARE AS UNDER:
HEIGHT 5'-11"
EDUCATION 12th DATE OF BIRTH 4.6.81



HE HAS BEEN DECLARED MEDICALLY FIT BY THE C.M.O/AMB. ON 30.5.02. AND HIS CHARACTER AND ANTECEDENTS HAVE BEEN VERIFIED BY D.C./SP KKR. AND HE IS HEREBY APPOINTED AS TEMPORARY CONSTABLE IN INDIA RESERVE BATTALION WITH EFFECT FROM 17.06.02 AN IN THE PAY SCALE OF RS. 3050-85-4325EB-100-5325. HE IS ALLOTTED INDIA RESERVE BATTALION CONSTABULARY NO 389 AND DECLARED AS A MEMBER OF FORCE UNDER ACT 5 OF 1861. HE IS VESTED WITH THE POWERS, FUNCTIONS AND PRIVILEGES OF POLICE OFFICERS. HE HAS BEEN ENLISTED ON THE CONDITION THAT HE WILL BE FULLY BOUND AND ABIDE THE PPR AND OTHER RULES/INSTRUCTIONS ISSUED BY THE GOVT. FROM TIME TO TIME

IDENTIFICATION MARKS :-

- 1. SCAR ON Lt. ANKLE*
- 2. _____*

I AGREE WITH THE ABOVE

SIGNATURE OF THE CANDIDATE

COMMANDANT.

INDIA RESERVE BATTALION

BHONDSI (GURGAON)”

15. No appointment of Head Constable, ASI, SI or Inspector was made. All these ranks are promotional ranks. The respondent from time to time promoted Constables to the rank of Head Constable who were further promoted to the rank of ASI/SI. At the first instance one Battalion was raised and in the subsequent years strength of Battalions was increased and at present there are four Battalions. As submitted by State counsel as well as counsel for the private respondents, there are 52 sanctioned posts of Inspector with IRB(s). All the posts are occupied by officials promoted amongst Constables appointed in the Battalion. At the initial stage, posts of Senior Officers were occupied by members of other wings of the State Police, however, they did not utilize sanctioned posts.

The sanctioned posts were ultimately occupied by members of IRB as



soon as Constables came to be promoted to higher ranks.

16. This court vide order dated 09.08.2022 directed the respondents to reply to different issues. The issues raised by this court read as:

“9. In view of the aforesaid eventuality, in order to arrive at a just conclusion and further to foresee wide ramifications of the findings rendered by this Court, it is expedient that an additional affidavit be filed by the respondent-State substantiating/clarifying/explaining the following issues with supporting documents:-

(i) Whether the Indian Reserve Battallion is a separate cadre of Haryana Police Force? If yes, Rules/Standing Order/Instructions be produced in support thereof, if any.

(ii) Whether the nature of duties of Haryana Armed Police, Commando Force and the Indian Reserve Battalion are similar?

(iii) As to how the petitioners were allowed to take the Lower School Course, Intermediate School Course and the Upper School Course, if the Indian Reserve Battalion is not an integral part of the Haryana Police Force?

(iv) Whether the petitioners were sent to the promotional courses on the basis of joint seniority along with all the four cadres or on the basis of their own seniority within Indian Reserve Battallion?

(v) Whether promotions of the petitioners to the ranks of Head Constable, Assistant Sub Inspector and Sub Inspector were within sanctioned strength of Indian Reserve Battalion or they were promoted against posts in District Police Cadre/HAP/ Haryana Railway Police/Commando Force?

(vi) Details of District Armed Reserve and State Armed Police Battalions constituted as per Section 23 of



the Haryana Police Act, 2007 and details of Rules framed under the Act, 2007 regarding their constitution, recruitment, training, deployment of recruits and administration etc., if any.

(vii) What is the sanctioned strength of Inspectors in each cadre viz; General Cadre (Men and Women) of all districts and ranges, General Cadre (Men and Women) of Government Railway, Haryana Armed Police and Commando Police Force?

(viii) Whether the SIs of all four cadres of Haryana Police Force as mentioned in point (vii) are promoted to the post of Inspector as per common seniority amongst all four cadres or in each cadre separately as per their inter se seniority?

(ix) Whether the Indian Reserve Battalion is a specialized force/cadre like Telecommunication, State Crime Record Bureau, Band and Buglers Staff and whether services of recruits in specialized forces in the Haryana Police is governed by the Punjab Police Rules or separate rules are framed for them? Details of separate rules qua each specialized force, if any, be furnished.

(x) Whether the recruits of Indian Reserve Battalion are merely deployed to assist the District Police or they are also appointed/absorbed to District Police/HAP/Commando Police Force on transfer/deputation basis?

(xi) Whether SIs promoted as Inspectors from the cadre of Haryana Armed Police/Commando Police Force (assuming as per seniority in their respective cadre), are ever posted in the police station as SHOs or any other post for investigation/search & seizure/surveillance duties/gunman/ PSOs etc.?

(xii) Whether the Constables recruited in the Indian Reserve Battalion are also imparted with specialized training as is being given to Commando Police Force?



(xiii) Whether the Constables/Head Constables/Assistant Sub Inspectors/Sub Inspectors/Inspectors appointed in the four cadres of Haryana Police Force can be absorbed in cadre of each other?”

17. Section 4 of Haryana Police Act, 2007 (for short ‘2007 Act’) provides that Police service shall consist of such numbers in various ranks and have such organization or cadres as the State Government by general or special order determine and shall include the members of the Indian Police Service allotted to the State. The direct recruitment to various non-gazetted ranks in the police service shall be made through the Haryana Staff Selection Commission (for short, ‘HSSC’). The pay, allowances, service conditions and mode of recruitment of the police personnel shall be such as may be prescribed from time to time. Section 96 of the 2007 Act provides that Punjab Police Rules shall be deemed to have been framed under this Act till new rules are framed under this Act. Sections 4 and 96 are reproduced as below:

“4. Organization and composition of police service:-

Subject to the provisions of this Act,-

(1) 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 to the State;

(2) the direct recruitment to various gazetted and non-gazetted ranks in the police service shall be made through the Haryana Staff Selection Commission and gazetted posts shall be made through Haryana Public Service Commission as per relevant applicable service rules, by adopting a transparency process.



(3) the pay, allowances, service conditions, mode of recruitment of the police personnel shall be such as may be prescribed from time to time;

(4) police personnel shall at all times remain accountable to the law and responsive to the lawful needs of the people and shall observe codes of ethical conduct and integrity.

Section 96. Repeal and saving.-

(1) The Police Act, 1861 (Act 5 of 1861), in its application to the State of Haryana, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or any proceeding instituted under the Act so repealed and the rules made thereunder, shall be deemed to have been done or taken or instituted under this Act.

(3) All references in any enactments to any of the provisions of the Act so repealed shall be construed a reference to the provisions of this Act.

(4) The Punjab Police Rules framed under the Police Act, 1861 (Act 5 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.”

18. From the perusal of above quoted sections, it is evident that State Government may create organization or cadres. Apart from cadres, organization may also be created. An organization may be within cadre or it may be outside the cadre. The direct recruitment to non-gazetted ranks is made through HSSC and gazetted post through Haryana Public Service Commission (for short, 'HPSC'). The mode of recruitment is prescribed by the State Government.

The District Police, HAP, GRP and Haryana Police Commando were created by the State Government. The recruitment of members of the cadre is made by HSSC or HPSC. It is prerogative of the



State to determine pay, allowances, service conditions and mode of recruitment. In the case of IRB, the recruitment is made with the intervention of Central Government. The Recruitment Board comprises of representative of Central Armed Forces. The conditions of service include training with Central Armed Forces. The State Government has prerogative to create different organizations and cadres. Haryana Police (Non Gazetted and Other Ranks) Service Rules, 2017 (for short, '2017 Rules') framed under 2007 Act make it clear that State Government has recognized four cadres which do not include IRB.

19. Promotion from the rank of Constable to Inspector is made according to Punjab Police Rules. The State Government has maintained different lists known as List-C, D and F for the sake of promotion. The officials who are eligible for promotion from the rank of Sub-Inspector to Inspector are reported in List-F. Inclusion of name of an official in the List-F does not mean that he has become an Inspector. List indicates name of officials who are to be considered for further promotion to the rank of Inspector. Rule 13.15 and Rule 13.16 of Punjab Police Rules dealing with promotion to the rank of Inspector are reproduced as below:

“13.15 List F – Promotion to Inspectors.

(1) Recommendations on behalf of Sergeants and Sub-Inspectors considered fit for promotion to the rank of Inspector shall be submitted with their annual confidential reports on the 15th April each year to Deputy Inspectors-General by Superintendents of Police in form 13.15(1). Recommendations on behalf of Sergeants and Sub-Inspectors employed in the Government Railway Police will be sent direct to the Inspector-General of Police by the Assistant Inspector-General, Government Railway Police, in the same



form and not later than October each year. The Deputy Inspector-General shall decide, after seeing the officers recommended, and in consideration of their records, and his own knowledge of them, whether to endorse the recommendations of Superintendents of Police and forward them to the Inspector-General. He will keep a copy of any recommendation so forwarded in the personal file of the officer; if he decides not to endorse a recommendation, he shall retain the original in the officer's personal file and send a copy of his own order on it to the Superintendent concerned. Deputy Inspector-General shall finally submit recommendations to the Inspector-General as soon as they are satisfied as to the fitness of officers recommended, but in no case later than October each year.

(2) Such of the officers recommended as the Inspector-General may consider suitable shall be admitted to promotion list 'F' (Form 13.15(2)) which will, however, not be published. Deputy Inspectors General shall be informed, and shall in turn inform the Superintendents concerned, of the names of those who have been admitted to the List; similar information will be sent to the Assistant Inspector General, Government Railway Police.

The original personal files of Sub-Inspectors admitted to the list shall be transferred to the Inspector-General after duplicates have been prepared for retention in the office of the Deputy Inspector-General or the Assistant Inspector-General, Government Railway Police, as required by rule 12.38(1). Copies of all subsequent annual confidential reports prepared in Form 13.17 in respect both of Sergeants and Sub-Inspectors admitted to the list will, on return by the Inspector-General in accordance with rule 13.17(1), be recorded by Deputy Inspector-General or the Assistant Inspector-General, Government Railway Police, with the duplicate personal files of the officers concerned. Copies of



all entries ordered to be made in personal files other than annual confidential reports will be forwarded to the Inspector-General as soon as made for record with the original personal files; all such copies shall be attested by the Deputy Inspector-General or the Assistant Inspector-General, Government Railway Police, personally.

(3) When submitting recommendations for the entry of fresh names in List 'F', Deputy Inspectors-General and the Assistant Inspector-General, Government Railway Police, will at the same time submit specific recommendations (which need not be accompanied by detailed confidential reports) as to the retention or removal of officers already admitted to the list. On receipt of these recommendations, the Inspector-General will review the Provincial List, and pass orders regarding the retention or exclusion of names, at the same time communicating his decision to the Deputy Inspector-General and the Assistant Inspector-General, Government Railway Police.

(4) Sub-Inspectors admitted to List 'F' will be placed in that list in order according to their date of permanent promotion to selection grade and, if the date of permanent promotion to selection grade is the same in the case of two or more Sub-Inspectors admitted to list 'F' on one and the same date, then according to date of permanent promotion to the time-scale. Sergeants will be shown in list 'F' according to the date of entry in the list. When, however, two or more sergeants are admitted to list 'F' on the same date, their names will be shown in order of seniority among themselves.

13.16 Promotion to the rank of Inspector.

(1) Substantive vacancies in the rank of Inspector, save those which are specifically designated for the appointment of probationers, shall be filled by promotion of officers from List 'F' selected according to the principles laid down in



rule 13.1. Sergeants are eligible for promotion in the appointments reserved for European Inspectors.

(2) Temporary vacancies in the rank of Inspector shall be filled by the officiating promotion of officers on 'F' list by the authorities empowered by rule 13.4 to make the appointment. Such officiating promotions shall be made in accordance with the principles laid down in sub-rule 13.12 (1) in the case of 'E' list, and the second part of that rule shall, mutatis mutandis, govern the scrutiny of the work of 'F' list officers and the removal from that list of the names of those who are found unfit for the rank of Inspector.

(3) No officer whose name is not of 'F' list shall be appointed to officiate as inspector without the special sanction of the Inspector-General. When no officer on 'F' list is available in the range for a vacancy which the Deputy Inspector-General is required to fill, application shall be made to the Inspector-General to appoint a man from another range."

20. The respondent has refused to include name of petitioners in List-F. It is a settled proposition of law that it is prerogative of State to create or abolish any cadre or post. The Courts have no right to interfere in the business of creation or abolition of cadres or posts unless and until there is violation of fundamental rights or *mala fide* on the part of authorities. A three Judge Bench of Supreme Court in '**Official Liquidator v. Dayanand and Others**', (2008) 10 SCC 1 has adverted to this issue. The Court has held that it is responsibility and right of State to create or abolish any cadre. The relevant extracts of the judgment are reproduced as below:

"59. The creation and abolition of posts, formation and structuring/restructuring of cadres, prescribing the source and mode of recruitment and qualifications and criteria of



selection, etc. are matters which fall within the exclusive domain of the employer. Although the decision of the employer to create or abolish posts or cadres or to prescribe the source or mode of recruitment and laying down the qualification, etc. is not immune from judicial review, the Court will always be extremely cautious and circumspect in tinkering with the exercise of discretion by the employer. The Court cannot sit in appeal over the judgment of the employer and ordain that a particular post or number of posts be created or filled by a particular mode of recruitment. The power of judicial review can be exercised in such matters only if it is shown that the action of the employer is contrary to any constitutional or statutory provisions or is patently arbitrary or vitiated by mala fides.

*60. In **State of Haryana v. Navneet Verma (2008) 2 SCC 65**, a Division Bench of two Judges referred to **M. Ramanatha Pillai v. State of Kerala (1973) 2 SCC 650**, **Kedar Nath Bahl v. State of Punjab (1974) 3 SCC 21**, **State of Haryana v. Des Raj Sangar (1976) 2 SCC 844**, **N.C. Singhal (Dr.) v. Union of India (1980) 3 SCC 29** and **Avas Vikas Sanghathan v. Engineers Assn. (2006) 4 SCC 132** and culled out the following principles: (**Navneet Verma case (2008) 2 SCC 65**, SCC p. 70, para 14)*

“(a) the power to create or abolish a post rests with the Government;

(b) whether a particular post is necessary is a matter depending upon the exigencies of the situation and administrative necessity;

(c) creation and abolition of posts is a matter of government policy and every sovereign Government has this power in the interest and necessity of internal administration;

(d) creation, continuance and abolition of posts are all decided by the Government in the interest of administration and general public;



(e) the court would be the least competent in the face of scanty material to decide whether the Government acted honestly in creating a post or refusing to create a post or its decision suffers from mala fides, legal or factual;

(f) as long as the decision to abolish the post is taken in good faith in the absence of material, interference by the court is not warranted.”

”

20.1 The respondent has formed an opinion that there are four cadres which are created by the State Government and these cadres form part of service as contemplated by 2007 Act. The respondent has decided not to include members of IRB for the purpose of promotion to the rank of Inspector. As held by Supreme Court, it is prerogative of the State to create or abolish any cadre. The State Government as per its wisdom has decided not to consider members of IRB while preparing List-F. The respondent as per its wisdom has considered four cadres as part of service. There is no allegation of *mala fide*. There is only allegation of discrimination which needs to be examined. There seems no discrimination with an individual. The allegation of petitioners is that they have been discriminated *vis-a-vis* HAP and Haryana Police Commando.

The petitioners are claiming that members of HAP and Commando are also not assigned duties of General Cadre still they are considered at par with General Cadre for the purpose of promotion to the rank of Inspector. The argument of petitioners at the first blush seems to be attractive and convincing. *Prima facie*, it appears that there is discrimination if petitioners are not treated at par with members of HAP.

The members of HAP and Commandos are part of two



different cadres. Those cadres are not contemplated in PPR, however, it cannot be ignored that they are creature of State Government and deployed on the direction of the State Government. They are under the direct control of Director General of Police. They cannot be deputed at the choice of Central Government. They upto the rank of S.I. are promoted District/Range wise and within cadre. They are getting training like General Cadre. Punjab Police Rules do not contemplate HAP & Commando Cadre but these cadres are contemplated by 2017 Rules. Rule 3 of 2017 Rules provides for number and character of posts and Rule 12 of 2017 Rules provides for seniority of enrolled Police Officers. Rules 3 & 12 read as:

3. Number and character of post.- *The Service shall comprise the posts shown in **Appendix A** to these rules: Provided that nothing in these rules shall affect the inherent right of the Government to make additions to or reduction in the number of such posts or to create new posts with different designations and scales of pay, either permanently or temporarily.*

12. Seniority of enrolled police officers.- *(1) The centralization of seniority for determining the lien, inter-se seniority and promotion of police personnel borne on the following cadres shall be governed as per the provisions contained in this rule.*

- (i) General cadre (men and women) of all districts and range;*
- (ii) General cadre (men and women) of Government Railway Police;*
- (iii) Haryana Armed Police;*
- (iv) Commando Police Force.”*



Appendix-A of the 2017 Rules contemplates four cadres which include HAP & Commando. Thus, the petitioners cannot claim parity with HAP and Commando. Appendix-A of 2017 Rules is reproduced as below:

“Appendix A
(See Rule 3)
HARYANA POLICE (GENERAL CADRE)”

Sr. No.	Designation of post	Number of Posts			Scale of Pay (in Rs.)
		Permanent	Temporary	Total	
1	2	3	4	5	6
1	Inspector	343	220	563	44900-142400
2	Sub-Inspector	662	610	1272	35400-112400
3	Assistant Sub-Inspector	2379	1237	3616	29200-92300
4	Head Constable	3433	2702	6135	25500-81100
5	Constable	18923	12796	31719	21700-69100
	Total	25740	17565	43305	

Haryana Armed Police

Sr. No.	Designation of post	Number of Posts			Scale of Pay (in Rs.)
		Permanent	Temporary	Total	
1	2	3	4	5	6
1	Inspector	55	24	79	44900-142400
2	Sub-Inspector	156	75	231	35400-112400
3	Assistant Sub-Inspector	232	54	286	29200-92300
4	Head Constable	852	492	1344	25500-81100
5	Constable	4299	2103	6402	21700-69100
	Total	5598	2748	8342	



Government Railway Police

Sr. No.	Designation of post	Number of Posts			Scale of Pay (in Rs.)
		Permanent	Temporary	Total	
1	2	3	4	5	6
1	Inspector	18	2	20	44900-142400
2	Sub-Inspector	19	11	30	35400-112400
3	Assistant Sub-Inspector	115	118	133	29200-92300
4	Head Constable	150	48	198	25500-81100
5	Constable	1005	309	1314	21700-69100
	Total	1307	488	1695	

Haryana Police Commando

Sr. No.	Designation of post	Number of Posts			Scale of Pay (in Rs.)
		Permanent	Temporary	Total	
1	2	3	4	5	6
1	Inspector	7	0	7	44900-142400
2	Sub-Inspector	14	0	14	35400-112400
3	Assistant Sub-Inspector	30	0	30	29200-92300
4	Head Constable	40	0	40	25500-81100
5	Constable	394	0	394	21700-69100
	Total	485	0	485	

21. The petitioners are claiming that respondent has included sanctioned posts of DSP of IRB while considering total strength. The petitioners are further relying upon notifications issued by the State Government where posts of DSP are considered while enhancing sanctioned strength. The petitioners have failed to consider that subordinate ranks i.e. rank below DSP are governed by Punjab Police Rules whereas services of DSP are governed by Haryana Police Service Rules, 2002. There is a single cadre and not only members of different



cadres but also Inspectors of IRB are eligible for promotion to the rank of DSP. The respondent has considered petitioners eligible for the rank of DSP whereas declined to consider for the rank of Inspector.

On the asking of Court, during the course of hearing, the respondent clarified that rank of DSP carries supervisory responsibility. The Inspectors are incharge of different Police Stations as well as different constituents of the department. They are directly concerned with investigation and maintenance of law & order whereas DSP holds supervisory post. The reason advanced by respondent does not seem much convincing, however, this Court in exercise of power under Article 226 of the Constitution of India cannot issue its imprimatur to respondents to treat petitioners at par with other officials on the ground that they are treated at par for the post of DSP. It is discretion of the employer especially State to decide eligibility criteria for promotion and eligibility of particular cadres. It is purely a policy matter and it is trite law that in policy matters Courts cannot substitute opinion of State authorities. It is State which knows its needs and strength of officers. The opinion of State cannot be substituted by opinion of this Court.

22. The respondent in reply to queries raised by this Court vide order dated 09.08.2022 has filed affidavit dated 21.02.2023 wherein the respondent has clarified that no member of IRB was appointed at Police Station. They were never assigned role of Investigating Officer. Their role with District Police was very limited. They are deployed only on the centralized/day/night patrolling, *naka* duties, prisoners' escort and general *bandobast* duties. They are not deployed at Police Stations, Police Posts, DPO/Range Offices or surveillance duties for conducting



search and raids. They are deployed with District Police for assisting in the investigation and performing duties of service of summons/warrants. They are deputed across the country for election duty, emergent law & order situations and such other duties as and when required by Government of India.

23. The affidavit dated 21.02.2023 filed by respondent further reveals that the petitioners were sent for promotional courses on the basis of their own seniority within IRB. They were deputed for Lower School, Intermediate School and Upper School Course for the purpose of protection of their promotion. The Government of India vide communication dated 28.06.2013 has asked the State Government to take appropriate action/decision in administrative matters like recruitment, promotion, posting, allowance etc.

The averments of the respondent make it clear that the petitioners were indubitably deputed for promotional courses but it was within their own seniority. The respondent deposes a batch of officers for promotional course. A batch may consist of officers belonging to any cadre. The respondent deputed IRB officers alongwith other members of Police force, however, their promotion was made within their own strength. No member of IRB was promoted taking into account promotion or rank of members of District Police or GRP or HAP or Commandos.

24. The respondent has not framed Rules governing recruitment, promotion and disciplinary action against members of IRB. In the absence of Rules, the Members of IRB either could be governed by Civil Service Rules or Punjab Police Rules as made applicable to State of



Haryana. The respondent for the sake of convenience applied Punjab Police Rules. These Rules provide for mode of recruitment, promotion, punishment etc. The petitioners were promoted in accordance with Punjab Police Rules. Application of Punjab Police Rules does not mean that petitioners, at any stage, stood merged with other wings of the State Police. They got promotion within their own strength. At the time of raising Battalion, posts of different ranks were sanctioned. The number of posts of Constables were much higher than posts of ASI, SI and Inspector. They were bound to be promoted and were actually promoted against sanctioned promotional ranks.

25. The respondent at the time of raising Battalions nowhere notified or clarified that members of IRB are part of General Cadre. The petitioners are conceding that there is no separate cadre for IRB, however, claiming that they should be considered as part of General Cadre. In the absence of notification issued by Competent Authority or promise made by State Government at the time of appointment or thereafter to the effect that members of IRB would form part of General Cadre, it cannot be opined by this Court that they are part of General Cadre. The members of General Cadre are posted in Districts and they are responsible for maintenance of law & order as well as assigned duty of investigation. They have to crack criminal cases. The petitioners have never been assigned role of Investigating Officer. They have not been appointed as incharge of Police Station. If in stray cases, few officers have been posted with District Police, it does not mean that they have become part of General Cadre. The petitioners could have become part of General Cadre, had they been regularly appointed with District Police



and assigned all those duties which are performed by District Police. They have never been assigned role of Investigating Officer or maintenance of day-to-day law & order, thus, they cannot be considered as part of General Cadre.

26. Both sides are one on the issue that there is no cadre of IRB. The petitioners are claiming that they should be treated part of General Cadre. Their claim is primarily based upon appointment letter, their promotional courses alongwith other police officials and treatment of members of HAP and Commando. The IRB was constituted in 2001. Haryana Police Act, 2007 came into force w.e.f. 01.11.2008. Section 23 of the Act provides for State Armed Police. 2017 Rules came into force w.e.f. 08.05.2017. The State Government considered HAP and Commando Police Force as cadre like General Cadre and GRP. The State Government never considered IRB as an independent cadre. This Court has no authority to make IRB as deemed part of General Cadre. It would amount to creating a deemed cadre and changing colour and contour of the organization.

27. The Central Government has first right over IRB. The members of IRB may be posted across the country. If contention of petitioners is accepted and they are treated at par with General Cadre and promoted alongwith General Cadre, they would occupy Police Stations as Inspector. If, at any stage, Central Government raises demand of IRB for deployment in any State outside the State of Haryana, the State Government would be bound to free all the members of IRB for deployment outside the State of Haryana. It means, the Inspectors holding charge of Police Stations would be required to leave Police Stations. It



may create chaos and problem of law & order. This seems to be the reason that members of IRB have never been deployed as Investigating Officer or incharge of Police Stations.

28. The respondent has constituted Telecommunication, State Crime Record Bureau, Band and Buglers Staff cadres/units. These are specialized units. These are governed by Punjab Police Act read with PPR or separate set of Rules. The members of these specialized units are also performing duties of Police Force, however, they are promoted in their own strength and no Sub-Inspector is considered for promotion alongwith other cadres. It shows that members of specialized units may or may not be considered for promotion alongwith different wings/cadres of Police Force. If claim of petitioners is considered, there are all possibilities that members of Telecommunication, State Crime Record Bureau, Band and Buglers Staff would lodge similar claim.

29. In the wake of above discussion and findings, the instant petitions deserve to be dismissed and accordingly dismissed. No order as to costs.

30. Pending Misc. application (s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

13.02.2025
Ali

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No