



CWP-26031-2015

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

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CWP-26031-2015

Date of decision: 05.04.2025

KARNAIL SINGH

....PETITIONER

Vs.

STATE OF PUNJAB & ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Ishaan Bhardwaj, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

Mr. R.S. Brar, Advocate for
Mr. Karan Bhardwaj, Advocate
for respondent No. 4.

Mr. J.S. Mohri, Advocate
for respondent No. 5.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondents to promote him as DSP from retrospective date and further release consequential dues along with interest.
2. Mr. Ishaan Bhardwaj, Advocate has put in appearance on behalf of the petitioner and filed Power of Attorney which is taken on record. Registry is directed to tag the same at an appropriate place.
3. The petitioner joined Punjab Police as Constable (Wireless) on 01.04.1976. The respondent No. 5 joined as Constable on 01.08.1977. As per seniority list of Constables, the petitioner was senior to respondent No. 5. The respondent No. 4 joined as Constable on 27.06.1985, thus, he was also junior to



petitioner. The petitioner was promoted as ASI on 08.01.1987 and respondent Nos. 4 and 5 came to be promoted thereafter. The respondent Nos. 4 and 5 came to be promoted as Sub Inspector out of turn w.e.f. 28.09.2001 and 12.10.2001 respectively. Their promotion was accorded by Director General of Police in exercise of power conferred by Rule 13.21 of Punjab Police Rules, 1934 (for short 'PPR'). The respondent vide order dated 15.10.2004 withdrew their promotion and reverted them to their original rank of ASI. They preferred CWP-17972 of 2004 and CWP-18254 of 2005 before this Court. Both the petitions came up for consideration before Division Bench of this Court which vide order dated 15.10.2008 held that private respondents' reversion was valid because they were wrongly granted out of turn promotion. The DGP has not exercised power under Rule 13.21 of PPR in accordance with law. The respondent Nos. 4 and 5 herein preferred SLP before Supreme Court. The respondents, despite passing order of reversion and dismissal of writ petitions by this Court, did not revert them to their original substantive rank of ASI. They continued to work as Sub Inspector. Rather, they came to be further promoted to the rank of Inspector. The respondents filed affidavit before Supreme Court deposing that State has re-examined the matter and decided that aforesaid officers were rightly granted out of turn promotion. In view of affidavit of respondent, SLP came to be disposed of vide order dated 22.03.2010.

4. The respondent No. 4 came to be further promoted to the post of DSP on 24.06.2011. The respondent No. 5 attained the age of superannuation as Inspector and respondent No. 4 retired as DSP.

5. Mr. Ishaan Bhardwaj, Advocate submits that petitioner concededly was senior to respondent Nos. 4 and 5 as per seniority list of Constables as well as ASI. Nevertheless, they were granted out of turn promotion which substantially



affected his career. The petitioner being senior should be granted benefit of promotion to the rank of Inspector as well as DSP from the date his juniors were promoted. He attained age of superannuation on 31.03.2014, however, worked till 31.03.2016 because was granted two extensions.

6. *Per contra*, Mr. Aman Dhir, DAG, Punjab submits that there cannot be negative equality. If claim of petitioner is accepted, there would be order of negative equality. As per petitioner, the respondent Nos. 4 and 5 were wrongly and out of turn promoted. The Competent Authority re-examined claim of respondent Nos. 4 and 5 and realized that they were rightly granted out of turn promotion. Accordingly, affidavit was filed before Supreme Court deposing that petition has rendered infructuous. The Supreme Court disposed of SLP as infructuous. There were many officers who were placed between the seniority of petitioner and respondent Nos. 4 and 5 and if petitioner is granted promotion on the ground of parity, it would open pandora's box.

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

8. The conceded position emerging from the record is that petitioner joined Punjab Police as Constable prior to respondent Nos. 4 and 5. He was indubitably senior to respondent Nos. 4 and 5 as Constable. He was promoted to the rank of Head Constable as well as ASI prior to promotion of respondent Nos. 4 and 5. The respondent extended benefit of out of turn promotion to respondent Nos. 4 and 5 and promoted them to the rank of Sub Inspector in 2001. The petitioner was assigned rank of Sub Inspector w.e.f. 02.08.2002 entailing tinkering with seniority of petitioner vis-à-vis private respondents. The respondent vide order dated 15.10.2004 withdrew out of turn promotion granted to respondent Nos. 4 and 5. A Division Bench of this Court upheld order of



reversion. The private respondents despite order of reversion and orders of this Court continued to work on promotional post. They preferred SLP before Supreme Court which was disposed of as infructuous because respondent before Supreme Court by way of affidavit conceded claim of respondents herein.

9. As per petitioner, he should be granted promotion to the rank of Sub Inspector, Inspector and DSP at par with respondent Nos. 4 and 5 because they were junior to him. He, as Constable, Head Constable and ASI, was senior to them. They were wrongly granted out of turn promotion under Rule 13.21 of PPR. Their out of turn promotion was set-aside by Division Bench of this Court. The respondent in a mischievous manner filed affidavit before Supreme Court and private respondents not only continued to hold out of turn promotion but also came to be further promoted.

The private respondents were granted out of turn promotion. They were promoted as Sub Inspector in 2001 whereas petitioner was promoted as Sub Inspector in August' 2002. The petitioner is claiming that promotion of private respondents was illegal, arbitrary and unjustified. This Court while adjudicating this petition cannot adjudicate said issue. A Division Bench of this Court upheld revoking out of turn promotion of respondents, however, they continued to work on promotional post and their out of turn promotion virtually stands approved by Supreme Court. The respondents rightly or wrongly filed affidavit before Supreme Court which led to disposal of SLP of private respondents herein.

10. This Court cannot examine legality of action of official respondents. This Court cannot express any opinion on the question whether private respondents were rightly or wrongly granted out of turn promotion. The jurisdiction of this Court is confined to entitlement of petitioner to the higher



post. Concededly, if promotion of private respondents is ignored, the petitioner was never met with injustice. He got promotion in accordance with law and as per his seniority. It is not his claim that he was on the top and private respondents were immediately below him whereas there were more than 100 officers between petitioner and private respondents. The admission of claim of petitioner would automatically make eligible all other officers who were senior to private respondents. This is not a unique or single case of out of turn promotion. There are many cases where State on account of one or another reason has granted out of turn promotion. If claim of the petitioner is allowed, a number of officers would certainly approach this Court claiming promotion on the ground that their junior has been granted out of turn promotion.

There cannot be negative equality. If the State has wrongly granted promotion to one or another officer, it does not mean that this Court should perpetuate the illegality because it would cause resentment among the similarly situated officers and extend undue benefit to the petitioner. The persons who have not approached this Court, would be prejudiced unheard.

11. In the backdrop, the instant petition deserves to be dismissed and accordingly dismissed.

05.04.2025
manoj

[JAGMOHAN BANSAL]
JUDGE

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