

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No.6386 of 2001

Date of decision: 30th August, 2010

Chander Mohan

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA

Present: Mr. R.K. Joshi, Advocate for the petitioner.
Ms. Ambika Luthra, Assistant Advocate General, Punjab
for the State.

KANWALJIT SINGH AHLUWALIA, J. (ORAL)

Petitioner was selected as S.P.O. on 27th December, 1993, as a result of a competitive test held by the Board constituted by the Police Department, Punjab. On 11th January, 1994, the petitioner was enlisted as a Computer Operator. Subsequently, he was appointed as a Constable with effect from 23rd June, 1994. Later-on, the petitioner was reverted back as S.P.O. by the State.

In the present writ petition, the petitioner has not challenged his reversion but the grievance made is that he has been again recruited as a Constable with effect from 8th April, 1998, therefore, he should be given seniority and consequential benefits w.e.f. 23.6.1994, the date on which he was initially appointed as a Constable.

Satinder Singh, PPS, Additional Deputy Commissioner of Police, Headquarters & Security, Jalandhar has filed reply on behalf of

respondents No.1 to 3 by way of an affidavit dated 17.8.2010, wherein it has been stated that appointment of the petitioner as a Constable was challenged by his seniors in a writ petition bearing CWP No.7455 of 1996, as he had superseded 489 other S.P.O.s. That writ petition was allowed vide a judgment dated 12th December, 1996. Therefore, to implement the above said judgment, order of reversion of the petitioner was passed. In the concluding portion of the affidavit, it has been stated as under:

“5. That in compliance of the Judgment dated 23.10.1997 passed by this Hon’ble Court all reverted constables were considered by the respondents in the light of judgment dated 23.10.1997 and 23.12.1997 (Annexure R-1 and R-2 have already been annexed in written statement in this case). The case of the petitioner was also examined in the office of Director General of Police, Punjab and it was found that the case of the petitioner does not fall in any reserve category (i.e. SC, Ex-servicemen, Sportsmen etc.), therefore, the case of the petitioner was considered in 10% as per judgment dated 23.12.1997. The name of the petitioner was approved by the Director General of Police, Punjab in 10% quota (standing order 2/1997) vide order dated 08.04.1998. All these constables were retained in 10% on 08.04.1998, so, they were granted revised date of seniority as constable w.e.f. 08.04.1998. The petitioner was also granted revised date of seniority as Constable w.e.f. 08.04.1998, so no discrimination was made with the petitioner. So, it is very much clear that if demand of the petitioner is meted with them the petitioner would be superseding other 489 SPOs senior to him.”

A perusal of the aforesaid portion of the affidavit reveals that even the appointment of the petitioner as a Constable with effect from 8th April, 1998 was under the 10% discretionary quota reserved for the Director General of Police and was not on the basis of seniority. Once the petitioner was not eligible to be appointed as a Constable with effect from

23rd June, 1994, as the same was in breach of the rules of seniority and his appointment was challenged by his seniors by filing a writ petition in this Court, which was accepted, the petitioner cannot be granted the relief sought for, that he be treated as a Constable with effect from 23rd June, 1994.

Hence, the present writ petition is dismissed, with no order as to costs.

**[KANWALJIT SINGH AHLUWALIA]
JUDGE**

August 30, 2010
rps