
(1991) 10 P&H CK 0081
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6129 of 1991

Jarnail Singh Constable and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 10-10-1991

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Punjab Police Rules, 1934 — Rule 11, 13.7

Citation : (1992) 101 PLR 380

Hon'ble Judges : K.P. Bhandari, J

Bench : Single Bench

Advocate : H.S. Gill, for the Appellant; Varinderpal Singh, A.A.G., for the Respondent

Judgement

K.P. Bhandari, J.—It is admitted by the counsel for the parties that under the Punjab Police Rules, 1934 (as amended) a written test is held for selection of candidates for lower school course. Annexure P/1 is the extract of the merit list, Petitioner No. 6 Jasbir Singh's name figures at serial No. 13 and the name of lady constable Raj Rani figures at serial No 14 of the merit list Annexure P/1. This factual position is admitted by both the sides.

2. Mr. Varinderpal Singh, Assistant Advocate General, Punjab, however states that as a matter of practice lady Constables were treated separately and they were sent for training as per the requirement of lady constables although a common competitive test is held. He further states that even departmentally the seniority list of lady Constables is kept separately. The learned Assistant Advocate General, Punjab, has. not been able to bring to my notice any notification of the Government whereby the provisions of the Punjab Police Rules laying down separate seniority of Constables has been amended It appears that for the sake of convenience, the department is maintaining some seniority list of lady constables. Rule 13.7 of the Punjab Police Rules regulate the seniority of all constables and no distinction is made between a lady constable and a male

constable. Moreover, the question of seniority is not to be settled in this writ petition. The candidate is to be sent for lower school course according to his merit in the test. Jasbir Singh, petitioner No. 6 is admittedly at serial No. 13 of the merit list, Annexure P/1 and as such he had a right to be sent to the lower school course but he was denied this right and a candidate Raj Rani, lady Constable, who is at serial No. 14 in the merit list was sent. Plainly Jasbir Singh, petitioner No. 6 had a higher merit and had a preferential right to be sent to the lower school course. Petitioner No. 6, Jasbir Singh, had been denied equal opportunity in the matter of condition of service with regard to acquiring departmental qualifications by undergoing lower school course. He is, therefore, entitled to a writ of mandamus against respondents directing them to send the petitioner No. 6, Jasbir Singh to the lower school course which has started in the 1st week of October, 1991. The respondents are accordingly directed to send petitioner No. 6, Jasbir Singh, immediately to the said course even if for accommodating him any additional seat is to be created, that may be created.

3. Learned State counsel has brought to my notice that Punjab Police Rules have been amended and a separate cadre of lady Constables has been made vide notification No. G.S.R. 33/C.A.5/61/S.7/Amd./ 90 dated 15th June, 1990. These amended rules, will, however, come into force from the date of its publication in the official gazette. Jasbir Singh, petitioner No. 6, appeared in the test before the issuance of the notification dated 15th June, 1990. This notification is not retrospective in character and it cannot effect the right of the petitioner to be sent to the lower school course on the basis of merit. Now, the rules have been amended and a separate cadre has been created for the women police wing. The notification dated 15th June, 1990 has amended Rule 1.1. of the Punjab Police Rules, 1934 relating to the appointment of Police officials from Constables to Inspectors. The Government would be well advised in drawing separate seniority of each cadre of all the women police officials. The Government should also prescribe the strength of cadre.

4. In view of the above, this writ petition is partly allowed and the writ of mandamus is issued directing respondents Nos. 1 to 3 to allow Jasbir Singh, petitioner No. 6, to join the lower school course immediately which has started from the 1st week of October, 1991. With regard to petitioner Nos. 1 to 5 no case for interference is made out and the writ petition qua petitioner Nos. 1 to 5 is dismissed. No costs.