

(2019) 03 J&K CK 0145

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1931 Of 2009, IA 2559, 3221 Of 2009

Karan Singh & Ors

APPELLANT

Vs

State Ors

RESPONDENT

Date of Decision : 28-03-2019

Acts Referred:

Citation : (2019) 03 J&K CK 0145

Hon'ble Judges : Sindhu Sharma, J

Bench : Single Bench

Advocate : Sudershan Sharma, Raman Sharma, Sanchit Verma

Final Decision : Dismissed

Judgement

1. Petitioners, who are six in numbers, have challenged the selection of private respondent Nos.6 to 64 as Constables in IRP 16th, 17th, 18th, 19th, & 20th Battalions from District Rajouri selected vide Order dated 01.09.2009.

2. By order of this Court dated 27.10.2009, select list (Annexure-C) regarding selection of the private respondents was directed not to be given effect to. By order dated 25.02.2016, this petition was to be listed alongwith SWP No.13/2009 and by order dated 27.07.2017, this direction was reiterated by this Court. Subsequently, SWP No.13/2009 came to be decided with SWP No.1529/2007, SWP No.1009/2007, SWP No.940/2007 & SWP No.475/2008 by a common judgment dated 08.03.2017. Since this petition was not listed in terms of the above orders, therefore, it remains pending.

3. By order of this Court dated 01.01.2010, interim direction dated 27.10.2009 was vacated. Order dated 01.01.2010 is reproduced below:-

"By medium of SWP 1931/09, the petitioners, six in number, obtained stay of selection list of 59 selectees (private respondents). Being aggrieved, therefore, this CMP seeking vacation of the said direction. After arguing at some length, learned counsel for the petitioners submitted that the petitioners shall feel

satisfied if the official respondents are directed to reserve six posts, to which course of action, learned counsel for the respondents are not averse. In that view of the matter, I direct accordingly. As a corollary, interim direction dated 27-10-2009 shall stand vacated. Amendment alteration on motion. CMP disposed of. Main matter to come up after ensuing vacation. In the meantime objections by the State respondents."

4. Respondents were directed to reserve six posts, so that in case the petition is allowed, the petitioners are not deprived of their posts.

5. In the written arguments submitted by Mr. Sharma, learned counsel for the petitioners, who has referred to the judgment rendered in SWP No.13/2009, SWP No.1529/2007, SWP No.1009/2007, SWP No.940/2007 & SWP No.475/2008, has submitted that this petition may also be decided in terms of the judgment dated 08.03.2017 rendered in the aforesaid petitions. However, this submission that the Court has directed the State level merit should be the criteria, is not borne out from Para-18 of the judgment where after referring to the Bench decision of this Court in LPA(SW) No.84/2007. Para No.18 of the judgment dated 08.03.2017 as under:-

"18. In the light of aforesaid Division Bench judgment, facts of the case may be seen. In the instant case admittedly the advertisement notification was issued in the year 2006. The selected candidates have already joined and are performing the duties for past about more than 10 years. Therefore, it would be inequitable to quash their appointments at this point of time. However, taking into account the fact that in SWP No.940/2007 and SWP No.1009/2007, the appointments were made subject to the result of writ petitions and in SWP No.13/2009, two posts were directed to be kept vacant by an interim order dated 03.01.2009, I am inclined to direct the respondents to re-determine the merit of petitioners for appointment to the post of Constable in Indian Reserve Police (IRP) by a speaking order and in case the merit of petitioners is found to be above or equal to the last selected candidate in their quotas, to issue the order of appointment to the petitioners. In such a case, the petitioners shall be deemed to have been appointed from the date when selectees of the select list were appointed. Let the aforesaid exercise be carried out within two months from today. Needless to state that the respondents are at liberty to redraw the merit list for the limited purpose mentioned above. With the aforesaid directions, the writ petitions are disposed of."

6. However, in compliance to the interim direction dated 08.05.2014, the merit position of the petitioners has been worked out by the designated committee at PHQ and none of the petitioners, according to the report submitted by the answering respondent, have made the grade. Copy of order dated 11.02.2015 is annexed as Annexure-R1 with the compliance report which was filed on 18.08.2015.

7. In view of the aforesaid, this petition merits no consideration and is,

accordingly, dismissed alongwith connected IAs.