
(2010) 02 P&H CK 0255
In the Punjab And Haryana At Chandigarh

Munish Kumar

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 15-02-2010

Acts Referred:

Citation : (2010) 02 P&H CK 0255

Hon'ble Judges : Ashutosh Mohunta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ashutosh Mohunta, J.—The petitioner has prayed for quashing of order dated 24.11.2006 (Annexure P-3), and the order dated 4.1.2007 (Annexure P-4), vide which deemed date of the petitioner as Constable, which was initially granted as 18.7.1995, was withdrawn and the petitioner was granted revised date of enrollment as Constable w.e.f. 8.7.1998.

2. The petitioner was appointed as Special Police Officer (SPO) on 1.10.1993. Initially, he was given the deemed date of Constable w.e.f. 18.7.1995, vide order dated 29.9.1998, passed by respondent No. 3. Thereafter, the petitioner qualified the Lower School Course and was promoted as Head Constable on 18.7.2005, but the petitioner joined on the said post on 18.8.2005. However, respondent No. 3 vide order dated 24.11.2006 (Annexure P-3) withdrew the deemed date of Constable which was 18.7.1995, given to the petitioner and instead thereof he was given deemed date of Constable as on 8.7.1998, with a direction to respondent No. 4 to effect recovery from the pay of the petitioner. Respondent No. 4 thereafter passed the impugned order dated 4.1.2007 (Annexure P-4), refixing the date of Constable as 8.7.1998, of the petitioner and also ordered recovery in the shape of basic pay and annual increment.

3. It has been averred that the deemed date of Constable, which was initially 18.7.1995, had been withdrawn vide order Annexure P-3 without affording any opportunity of hearing to the petitioner.

4. Reply has been filed on behalf of the respondents wherein it has been averred that the petitioner was appointed as SPO in Punjab Police on daily wage basis on 1.10.1993, due to terrorism in the State. Some of the SPOs were absorbed as Constables out of turn of their seniority due to various reasons like good work against terrorists, suffering at the hands of terrorists, etc. But their out of turn absorption as Constable was challenged by the senior SPOs on the ground that they were not considered for post of Constables while allotting constabulary numbers to their juniors. This Court in SPO Lal Mohammed and Ors. v. State of Punjab reported as 1996(6) SLR 409, disposed of the writ petition with the following directions:

We dispose off the CWPs with the directions that the respective District Suptds. Of Police shall consider the claim of the petitioners for absorption as constable with effect from the date the persons junior to them were appointed. In case, the petitioners are found suitable, orders of their appointment shall be issued. The consequential relief to the fixation of pay and seniority shall follow. Keeping in view the large number of Special Police Officers/Auxiliary Constables, involved in these cases, we will not order payment of arrears of salary to avoid unnecessary burden on the state Government at this stage.

5. It has further been averred that out of 16000 persons who were initially appointed as SPOs, 4647 persons were found suitable for the posts of Constables. Those SPOs who passed the suitability test for the post of Constables in the year 1997 were allotted constabulary numbers. They were also granted benefit of notional pay fixation from the date persons junior to to them were allotted constabulary numbers in their respective districts because as per SPO Lal Mohd."s case (supra), the notional pay of the petitioners therein was to be re-fixed at par with their juniors. The petitioner in the present writ petition was found suitable for the post of Constable in the year 1997 and he was allotted constabulary number on 8.7.1998. However, he was inadvertently granted the deemed date of enrollment as Constable w.e.f. 18.7.1995, against lady Constable Paramjit Kaur No. 1454/GSP. But, subsequently it was found that the lady Constable Paramjit Kaur was granted revised date of enrollment as Constable w.e.f. 18.6.1999, so the deemed date of Constable granted to the petitioner was withdrawn vide order dated 24.11.2006.

6. A perusal of the aforementioned facts clearly shows that the petitioner was granted deemed date of Constable w.e.f. 18.7.1995, because lady Constable Paramjit Kaur had been granted the said date. However, date of enrollment of Paramjit Kaur as Constable was revised w.e.f 18.6.1999 and therefore, the enrollment date of the petitioner had also to be revised. Moreover, the petitioner was found suitable for the post of Constable in the year 1997 and hence he was allotted the constabulary number on 8.7.1998.

7. In view of the above, there is no merit in the writ petition and the same is dismissed.