
(1991) 08 P&H CK 0099

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 260 of 1991

Om Parkash

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 26-08-1991

Acts Referred:

Punjab Police Rules, 1934 — Rule 13.7, 19.20, 19.22

Citation : (1992) 2 ILR (P&H) 407

Hon'ble Judges : I.S. Tiwana, Acting C.J.;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : I.S. Balhara, for the Appellant; D.D. Vasudeva, Dy. Advocate-General, for the Respondent

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—The Appellant, an Instructor, at the Police Training College, Madhuban approached this Court with a grievance that persons junior to him viz. Respondents Nos. 5 and 6 had been wrongly deputed for the Lower School Course and that his claim had been illegally ignored. Finding that the action of the department was in strict conformity with the rules, the learned Single Judge dismissed the writ petition. Aggrieved by the order, the Appellant has come up in this appeal.

2. The Appellant was recruited as a Constable on October 22, 1979. He was allocated to district Jind. Respondent No. 5 was recruited as a Constable on October 26, 1979 and posted in district Narnaul. On February 4, 1985 Respondent No. 5 was posted as Instructor at Police Training College, Madhuban. Similarly, Respondent No. 6 was posted at Madhuban on September 15, 1981. As against this, the Appellant was posted as Instructor at Police Training College, Madhuban in August, 1988. While working as Instructors at Madhuban, Respondent Nos. 5 and 6 were deputed for the Lower School Course in the term which commenced on November 15, 1990. The Appellant claims that he is senior to Respondents Nos. 5 and 6 and had a right to be deputed for this Course

before them. The claim to seniority is based on the fact that the Appellant had joined service on October 22, 1979 while the Respondents had joined a few days later on October 26 and October 30, 1979 respectively. On this basis, Mr. T.S. Balhara, learned Counsel for the Appellant has contended that the Appellant had a right to be deputed for the Course prior to Respondents Nos. 5 and 6. It has also been contended that Rule 19.22 of the Police Rules had no application.

3. The procedure for selecting and deputing constables for the Lower School Course from different districts is laid down in rule for of the Police Rules. Neither the Appellant nor Respondents Nos. a and o were posted in any of the districts at the relevant time. They did not compete and were not selected under Police Rule 13.7. All the three of them were posted at the police Training college, Madhuban. Their claim could be considered only under the provisions of Rule 19.22. The relevant rule is extracted below:

19.22 Drill and Physical training at the Police Training School.

(1) The Principal, Police Training School, may retain for service at the school any head constable or constable deputed from districts for training under Rules 19.20. Without the approval of the Inspector-General no drill and physical training instructor may be retained for service at the school for more than three years at a time, there being an interval of at least one year before he is again so employed. The Principal, Police Training School, Pillar, is empowered to enter Police Training School, Drill and Physical Training Instructors directly into the lower School Course after then three years period of deputation, provided that they are sufficiently educated and their service at the Police Training School has been satisfactory.

(Emphasis supplied).

We are of the view that this rule contains an enabling provision. It authorises the Principal to admit Drill and Physical Training Instructors working in the institution to the Lower School Course after they have completed three years" period of deputation. This is subject to the condition that the Principal finds that they are sufficiently educated and their service at the college had been satisfactory. It was in exercise of the power under this rule that the Principal had admitted Respondents Nos. 5 and 6 the Lower School Course which commenced in November, 1990. They had completed three years of service in February, 1988 and September, 1984 respectively. At the relevant time, the Appellant had not completed the requisite period of service. Consequently, he was not eligible. As such, we find no infirmity in the action of the Principal in not selecting the Appellant. The view taken by the learned Single Judge is unassailable.

4. Mr. Balhara contends that the Appellant was senior to Respondents Nos. 5 and 6. This claim is based solely on the date of continuous appointment. The Appellant and Respondents Nos. 5 and C are posted in different districts. They do not as such, have any inter se seniority. In any event, the Appellant having been deputed to the Police Training College, Madhuban in August, 1988 had not

completed the requisite service of three years as required under Rule 19.22 and was thus not eligible to be deputed for the bower School Course when Respondents Nos. a and b had been sent. The claims have to be considered in accordance with the rules. This was done and the Appellant had failed only on account of the fact that he had not completed the requisite period of service at the Police Training College, Madhuban.

5. Mr. Balhara also contends that Rule 19.22 has no application. This contention is based on the ground that the rule uses the expression school while in Haryana, there is only a Police Training College. Admittedly, there is only one institution in the whole State of Haryana where the training for the bower School Course is imparted. This institution, whether named as a college or a school, is the only one to which the provisions of Rule 19.22 apply. We, therefore, find no basis for the contention that the provision of the rule is not attracted. Even if we were to assume that the provisions of Rule 19.22 are not attracted, the Appellant's interest would not be promoted in any manner whatsoever. In that situation, he will not be entitled to be considered or deputed under any provision.

6. We thus find no merit in this appeal which is dismissed. However, in the circumstances of the case, we leave the parties to bear their own costs.