

A

KARNAIL SINGH

v.

THE STATE OF PUNJAB AND ANR.

SEPTEMBER 6, 1994

B

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

Service Law—Head Constables—Promotion—Reversion—Promotion of juniors—Legality of.

C

The appellant-head constables underwent intermediate course of training and were put in 'G' list and promoted as Sub- Inspectors. In 1984 they were selected for training of Upper School Course. However, after completion of training, they were not included in 'E' list and instead of being promoted they were reverted as Head Constables while their juniors were promoted on ad hoc basis. They filed writ petitions in the High Court which were dismissed.

D

In appeal to this Court, it was contended on behalf of the State, that the appellants were denied promotion due to bad service record and adverse Confidential Report.

E

Allowing the appeals, this Court

F

HELD : 1. When the appellants have been standing in the same position as two other Head Constables and were senior to them necessarily they should also get the same treatment, but that was not meted out. Even assuming that they had adverse remarks, admittedly no enquiry was made, no findings were given after conducting an enquiry and after giving an opportunity to the appellants. Therefore, their reversion as Head-Constables is clearly illegal. Though they have been promoted subsequently they must be deemed to have been promoted on par with juniors with all the consequential benefits. [197-G-H; 198-A]

G

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 297-98 of 1987.

H

From the Judgment and Order dated 13.8.86 of the Punjab and Haryana High Court in C.W.P. Nos. 2719 & 2676 of 1986.

S.K. Bagga, Seeraj Bagga and Tanuj Bagga Advs. for the Appellant A

G.K. Bansal and R.Yadav for the Respondents.

The following Order of the Court delivered by :

Both the appeals are disposed of by a common judgment since same B
point is involved for adjudication. These appeals by Special Leave arise
from the order of the Division Bench of the High Court of Punjab &
Haryana in Civil Writ Petition No. 2636/86 dated August 13, 1986 and Civil
Writ Petition No. 2719/86 of the Judgment. Admittedly the appellants were
holding substantive posts as head-constables. They were sent to undergo C
intermediate course of training in the year 1976 and they were put in the
'G' List and they were temporary promoted as officiating Sub-Inspectors
on May 1, 1981. Thereafter on April 1, 1994 they were selected for
undergoing training of upper school course at police training college,
Phillaue in Distt. Jullundur. After completion of the training instead of D
promoting them as inspectors in the meantime they were reverted as
head-constables. They filed writ petitions as stated earlier and the High
Court dismissed the writ petitions.

It is seen from the proceedings Annexure - P at page the writ
petitions. E

It is seen from the proceedings Annexure-P at page 32 of the Paper
Book that the appellants were not promoted as Inspectors. Though the
appellants have completed the upper school course ending with the ter
August, 1984 they have been ignored and not included on the E List due
to their chequered service record. Mota Singh and Karnail Singh though F
have been categorised in that category, in paragraph 4 of the same order
they have been promoted on ad hoc basis w.e.f. October 4, 1984. Admit-
tedly Mota singh, head constable No.80/119 and Karnail Singh head con-
stable 82/22 are juniors to the appellants in the seniority mentioned in the
order. When the appellants have been standing in the same position as G
Mota Singh and Karnail Singh and seniors to them necessarily they should
also get the same treatment. Unfortunately that was meted out: It is sought
to be contended on behalf of the State that due to bad record and adverse
confidential report, they have not been given the promotion. Even assum-
ing that they had adverse remarks, admittedly no enquiry was made, no
findings were given after conducting an enquiry and after giving an oppor- H

- A** tunity to the appellants. Therefore, the reversion of them as head-constables is clearly illegal. Though they have been promoted subsequently in 1987-88 respectively, they must be deemed to have been promoted on par with juniors w.e.f. October 8, 1984. The appellants are accordingly entitled to the above declaration and the consequential benefits. The appeals are allowed and writ issued. No costs.

B

T.N.A.

Appeal allowed