

Ashwani Kumar & Ors. Vs. State of H.P. & Ors.

CWP No.2740 of 2020

07.11.2025 Present: Mr. Suneet Goel, Senior Advocate with Mr. Vivek Negi, Mr. Vishwas Kaushal and Mr. Aman Hansretta, Advocates, for the petitioners.

Mr. Y.P.S. Dhaulta, Additional Advocate General, for the respondents.

CMP No.26232 of 2025

In view of urgency pointed out, this application has been heard for grant of interim relief as urged by learned Senior Counsel for the applicants/petitioners.

2. Prayer clause of the application reads as under:-

“It is, therefore, prayed that this application may kindly be allowed and the B-1 test proposed to be conducted by non-applicants/respondents in terms of Annexure A-1 (collectively) particularly office order dated 25.6.2025 and 11.8.2025, whereby B-1 examination has been scheduled to be held on 21.9.2025, may kindly be stayed during the pendency of the writ petition and justice may be done. Any other or further order which this Hon’ble Court deem fit and proper keeping in view the facts and circumstances of the case may also be granted in favour of the applicants/petitioners and justice be done.”

Learned Senior Counsel for the applicants/petitioners pointed out that B-I examination, which is sought to be stayed by the applicants/petitioners in this application, was initially scheduled by the respondents for 21.09.2025. It was cancelled. Second time, it was scheduled for 26.10.2025. The same was again cancelled and for the third time, B-I test has now been scheduled for day after tomorrow-09.11.2025 (Sunday).

3. For staying the B-I test now stated to be scheduled for 09.11.2025, following submissions were advanced:-

3(i). In ***Latest HLJ 2015 (HP) Suppl. 790 (Sakshi Sharma and others V/s The State of Himachal Pradesh and others)***, several directions were issued including direction No.17, which reads as under:-

“(xvii) Respondent-State is directed to constitute the following committee to improve the conditions of service of the police personnel: (a) Principal Secretary/Secretary (G.A.D.), Government of Himachal Pradesh. (b) The Secretary (Finance), Government of Himachal Pradesh. The committee shall undertake the exercise the manner in which the conditions of service of police personnel can be improved by providing time bound promotions, incentives to those police personnel who improve their educational qualification, their duty hours, housing problems and over time allowances etc. the committee shall make its recommendations within a period of three months from today to the State Government. Thereafter, the State Government shall take necessary action within a further period of three months. It shall be open to the committee to make other recommendations concerning welfare of police personnel.”

In terms of above direction, the respondent-State was directed to constitute a Committee to improve the conditions of service of police personnel. The Court directed the Committee to also undertake the exercise for improving the conditions of service of police personnel, *inter alia*, by providing time bound promotions. The Committee was to make its recommendations within a period of three months. Three months' further time was provided to the State Government to take necessary action.

3(ii). Pursuant to above directions, the Principal Secretary (Home) vide notification dated 05.11.2012 (Annexure P-7), constituted a Committee consisting of the Principal Secretary/Secretary (GAD) to the Government of Himachal Pradesh; Principal Secretary (Finance) to the Government of Himachal Pradesh; and the Director General of Police, Himachal Pradesh or his representative, *inter alia*, for carrying out the exercise for improving the conditions of service of police personnel by providing time bound promotions.

The Committee convened its meeting on 16.03.2013 under the chairmanship of the Additional Chief Secretary (Home) to the Government of Himachal Pradesh. Minutes of meeting of this Committee have been placed on record as Annexure P-8. In terms thereof, the Inspector General of Police, Southern Range had emphasized before the Committee that about 85% of police officials get promoted from Constables to the rank of Head Constables only after passing the B-I test, which is mandatory for promotion. That the said test is the main bottleneck for promotion as only a few police personnel qualify this test. That in order to remove the stagnation, the Police Department had recommended abolition of B-I test and promotion to the rank of Head Constable to be

effected purely on seniority basis after passing the Lower Class Course. Relevant portion from the minutes of meeting reads as under:-

“c) The Inspector General of Police, Southern Range further emphasized that at present about 85% police officials are promoted from Constable to the rank of Head Constables only after passing the B-I test which is mandatory for promotion. This is the main bottle neck for promotion as only a few police personnel can qualify this test. In order to remove this stagnation the Police Department has recommended that the B-I test should be abolished and promotion to the rank of Head Constable should be purely on seniority basis after passing the lower class course. Similarly, policing at cutting edge requires more officials at middle level i.e. ASI/SI as they conduct investigation and supervise various field duties.”

3(iii). Admittedly, as per the existing Rules, there is no provision for providing time bound promotion. Attention was also invited to Section 104 of the Himachal Pradesh Police Act, 2007, in terms of which “The State Government shall formulate policies in order to ensure adequate promotional avenues to meritorious Police Officers of all ranks”.

3(iv). Learned Senior Counsel for the petitioners also highlighted Standing Order of B-I test issued on 02.01.2017 by the Director General of Police, Himachal Pradesh (Annexure A-1), in terms of which, B-I test has to be held in the month of August every year generally with discretion to the Director General of Police to hold this test once or more than once in a year in case of exigencies

keeping in view the vacancy position. Portion relevant to the context from the standing order reads as under:-

“(2) Frequency of B-I Test:- B-I test shall be held in the month of August every year generally. However, the Director General of Police shall have discretion to hold the test once or more than once in a year in case of exigencies keeping in view the vacancy position. This order will also be applicable to Lady Constables mutatis mutandis, as there is no separate cadre for the Lady Constables.”

Attention was further invited to Standing Order No.01/2024, as notified on 02.01.2025 (part of Annexure A-1), which reiterates holding of B-I test once in the month of August every year with discretion to the Director General of Police to hold this test once or more than once in a year in case of exigencies keeping in view the vacancy position.

3(v). Learned Senior Counsel for the petitioners submitted, which fact is, *prima facie*, borne out from the pleadings, that almost 60% of promotions to the post of Head Constables are made from those, who qualify B-I test; 30% on the basis of seniority; and 10% from those who are consistent outstanding performers in job or sports or display exceptional bravery during job. It has been projected that those falling under 30% get promoted more or less after 34 years of service and large number of Constables in this category superannuate without getting any promotion at all in their service career. 10% posts

reserved for consistent outstanding performers are also given to those, who qualify B-I test or in other words, these 10% posts are also filled up on the basis of B-I test.

3(vi). As per the Standing Orders, B-I test is required to be conducted every year, but during the last 20 years, it has been held only about 5-6 times. The last B-I test was conducted in the year 2017. Instant B-I test now scheduled for 09.11.2025 is being held after about seven years.

3(vii). B-I test is being conducted pursuant to the standing orders, which are being issued in arbitrary manner by the respective Director Generals of Police. Holding of B-I test after 07 years despite the fact that there have been recommendations for abolishing this test, would lead to creation of disparity amongst the incumbents inasmuch as those working in the Department for a number of years and having more experience, on their not qualifying the B-I test, would not be promoted to the post of Head Constable, whereas, those who are having lesser years of service and experience, can get promotion to the post of Head Constable, if they qualify the said test. The problem would be aggravated as a large number of Constables, who joined the Department as Constable prior to 2018, have been denied the opportunity of taking the

B-I test for around 07 years despite being eligible all along for promotion to the post of Head Constable. Such incumbents-General Duty Police Officials would not even have sufficient time to put in required labour for clearing the test due to their demanding 24X7 duties. Such incumbents would also be at disadvantageous position as compared to those, who have just graduated and are comparatively at better place in terms of familiarity with the syllabus, absence of responsibilities and appearing in the test at the threshold of their service career. Not conducting the B-I test for the past so many years and holding it now would adversely affect the petitioners.

3(viii). Submissions were also made that instead of making promotions on the basis of B-I test, respondents ought to go for tenure or seniority based promotions of Constables to the posts of Head Constable without insisting upon their qualifying the B-I test. It was also highlighted that there is great disparity in the promotional avenues within various wings of the Police Department of the respondent-State, viz. Band Staff in Police Bands (Brass Band & Pipe Band); Executive Clerical Wing of the Police Organization; State Crime Record Bureau (Computer Cell) for Criminal Investigation (CID); Finger Print (CID); Dog Squad (CID); Mountain Police; District Police (General

Duty); Armed Police Training/Battalion (General Duty); and Traffic Tourist & Railway (TTR) (General Duty). In the aforesaid wings, the incumbents statedly take 3 to 4 promotions during their service career as against the petitioners-General Duty Police Officials, who retire without getting even a single promotion in view of their failure to qualify B-I test, frequency of holding of which depends upon whims & fancies of the respondents and because of the said B-I test not being held annually, it becomes difficult for the incumbents like the petitioners to compete with their younger counterparts after years together and qualify the same.

4. Learned Additional Advocate General submitted that in terms of the standing orders existing as on date and the rules position, promotion of General Duty Police Officials from the post of Constable to that of Head Constable can only be ordered on the basis of their passing the B-I test.

5. In view of the grounds urged for the petitioners, in my considered view, a case for grant of interim relief has been made out. The petitioners have been, *prima facie*, able to establish that irreparable loss and injury shall be caused to them in case respondents are allowed to proceed

with the B-I test, which is now scheduled for 09.11.2025 after a gap of 07 years.

At this stage, petitioners' contention appears to be justified that B-I test being held day after tomorrow (09.11.2025), may not be practical for safeguarding their (General Duty Police Officials) interests as it was not held yearly, is being held after a gap of 07 years, hence, will disfavour those who were eligible 07 years ago. Such incumbents in line of duty 24X7 will have to compete with fresh entrants. Further, petitioners' contention of providing promotional avenues to the post of Head Constable disregarding B-I test in view of materials highlighted, cannot be brushed aside at this stage. Holding of B-I test, its relevance and necessity for making promotions to the post of Head Constable, in the given facts & circumstances, needs to be deliberated upon in light of grounds urged for the petitioner.

Hence, the respondents are directed not to proceed with the B-I test, that is stated to be scheduled on 09.11.2025, till the next date of hearing.

Reply to the application be filed within ten days.

List on **19.11.2025**.

November 07, 2025
Mukesh

Jyotsna Rewal Dua
Judge