

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMP No. 26232 of 2025

in

CWP No. 2740 of 2020

Order reserved on: December 15, 2025

Date of decision : December 30, 2025

Ashwani Kumar & Ors.

...Petitioners/applicants.

Versus

State of Himachal Pradesh & Ors.

...Respondents/
non-applicants.

Coram:

Ms. Justice Jyotsna Rewal Dua, Judge

¹*Whether approved for reporting? Yes.*

For the petitioners : Mr. Suneet Goel, Senior Advocate with
Mr. Vivek Negi, Advocate, for applicants.

For the respondents : Mr. Anup Rattan, Advocate General with Mr.
L.N. Sharma, Additional Advocate General for
non-applicants.

Jyotsna Rewal Dua, Judge

Background

Himachal Pradesh Police Department had been following the Punjab Police Act, 1861 and Punjab Police Rules, 1934. The Punjab Police Act was eventually replaced by the Himachal Pradesh Police Act, 2007. However, archaic Punjab Police Rules, 1934 are

¹ *Whether reporters of Local Papers may be allowed to see the judgment? Yes.*

still being followed for want of framing of Rules by the State of Himachal Pradesh though some amendments to the Rules have been made by the respondents-State.

1(i) Section 3(1) of the H.P. Police Act, 2007 (in short 'H.P. Police Act') provides '*there shall be one Police Service for the State, called the "Himachal Pradesh Police Service" and members of such Service shall be liable for posting to any branch of the Service including the Armed Police or any of the specialized wings*'.

As per Section 4(1)(i) of the H.P. Police Act '*subject to the provisions of this Act, the Police Service of the State shall be categorized as the Civil Police and the Armed Police, each consisting of appropriate numbers of Non-Gazetted Police Officers Grade-II, comprising of Constables and Head Constables*'.

Entry level induction at lowest rung of ladder in State Police is to the post of Constable. This post is filled up 100% by direct recruitment. During hearing it was given to understand by learned Counsel for the parties that after induction of an incumbent as Constable, besides General Duty, he can join different branches/ sub-cadre of State Police constabulary i.e. :- Executive Cadre, Crime Record Bureau, Finger Print (CID), Dog Squad (CID), Mountain Police, Communication & Technical Services, Armed Police, Traffic Tourist & Railway etc. subject to clearance of separate

tests, though the incumbent remains a Constable in the other branches as well. Constables in some specific sub-cadres viz. Band Staff branch and Constables – Drivers etc. are recruited separately.

1(ii) Promotion of Constable is to the post of Head Constable. As per the H.P. Police Act, 2007, Section 144(4) *'The Punjab Police Rules, 1934 as applicable to the State of Himachal Pradesh shall, except to the extent that a provision may be inconsistent with the provisions of this Act, continue to be in force and shall have effect as if made under the corresponding provisions of this Act'*. Rule 13(8) of the Punjab Police Rules, 1934 (in short the 'Punjab Police Rules') governs promotion of Constable to that of Head Constable as under:-

“Rule 13.8 for Punjab

13.8 List C. Promotion to Head Constables. – (1) In each district a list shall be maintained in card index form (form 13.8(1)) of all constables who have passed the Lower School Course at Phillaur and are considered eligible for promotion to Head Constable. A Card shall be prepared for each constable admitted to the list and shall contain his marking under sub-rule 13.5(2) and notes by the Superintendent himself, or furnished by Gazetted Officers under whom the constable has worked, on his qualifications and character. The list shall be kept confidentially by the Superintendent and shall be scrutinized and approved by the Deputy Inspector-General of Police at his annual inspection.

(2) Promotions to Head Constables shall be made in accordance with the principle described in sub-rules 13.1(1) and (2). The date of admission to List C shall not be material, but the

order of merit in which examinations have been passed shall be taken into consideration in comparing qualifications. In cases where other qualifications are equal, seniority in the police force shall be the deciding factor. Selection grade constables who have not passed the Lower School Course at the Police training School but are otherwise considered suitable may, with the approval of the Deputy Inspector-General, be promoted to Head Constable up to a maximum of ten per cent of vacancies.”

State of Himachal Pradesh carried out its own amendment to sub-rule 2 of Rule 13(8) of the Punjab Police Rules vide notification dated 16.08.2012 reiterated on 24.05.2013 as under:-

“(2) Promotions to Head Constables shall be made in accordance with the principle described in sub-rules 13.1(1) and (2). The date of admission of List C shall not be material, but the order of merit in which examinations have been passed shall be taken into consideration in comparing qualifications. In cases where other qualifications are equal, seniority in the police force shall be the deciding factor. The posts of Head Constable likely to fall vacant in a calendar year shall be filled up in the following manner:

- (a) Minimum 60% posts shall be filled up on merit through B-I Test subject to passing of Lower School Course;**
- (b) 30% posts shall be filled up with the approval of the Inspector-General of Police (from the Constables who have not qualified the Lower School Course) on the basis of seniority-cum-fitness;**
- (c) Maximum of 10% posts shall be filled up with the approval of the Director General of Police from amongst the Constables who have not passed the Lower School Course, on the basis of consistent outstanding performance in job, outstanding performance in sports or display of act of exceptional**

bravery during the course of performance of official duty, as per standing order issued vide Director General of Police on the subject. **In case all posts can not be filled up, these will be added to category in (a) above. The Lower School Examination has to be passed immediately thereafter.**"

1(iii) In terms of above amendment 60% of the posts of Head Constables are to be filled up through B-1 test subject to passing of Lower School Course, 30% from the Constables who have not qualified the Lower School Course, on the basis of their seniority-cum-fitness and maximum of 10% posts are to be filled up from amongst Constables who have not passed the Lower School Course, on the basis of their consistent outstanding performance in job, sports or acts of exceptional bravery during discharge of official duty. In case posts in this category (outstanding performance) remain unfilled, they also get added to the posts to be filled up through B-1 test (60% category).

1(iv) Petitioners were inducted as Constables. Their grievance in the application is centered around the B-1 test relating to prayer No. 'b' i.e. time bound promotion of Constable/abolition of B-1 test made in the main petition. Learned Senior Counsel for the petitioners has urged several grounds pointing out petitioners' version that holding of B-1 test and filling up the promotional posts of Head Constable on that basis is unjust as it adversely affects their

right of consideration for promotion. Arguments have also been addressed about the manner in which this test is held, the hardships being caused to the petitioners/Constables on account of current format of promotion to the post of Head Constable adopted by the respondent Police Department, the discrimination being meted out to the petitioners for their promotion as Head Constable and inaction of the respondents in taking appropriate call on several reports of the concerned authorities on the subject matter. According to the petitioners, B-1 test should be abolished altogether. These contentions have been opposed by the learned Advocate General for the respondent-State. Respondent-State has also emphasized that out of 13 petitioners, petitioner No. 6 superannuated on 31.01.2025; Save & except petitioner Nos. 8 & 11, all others had remained unsuccessful in B-1 test. Petitioner No. 8 was not eligible to appear in B-1 test at the time when it was last held in the year 2017; Petitioner No. 11 had not appeared in B-1 test; Only one petitioner has submitted his willingness to appear in the current B-1 test. All the petitioners are at verge of retirement.

2. The B-1 test

2(i) The B-1 test consists of written test comprising multiple-choice questions and outdoor tests. The written test includes Paper-I, which covers the Punjab Police Rules & practical police work, and

Paper-II, covering local and special laws. Constables selected through the B-1 test are placed in List-B, rendering them eligible to undergo the Lower School Course. Upon successfully passing the said course, an incumbent gets placed in List C-I, thereby promoted to the rank of Head Constable.

2(ii) The B-1 tests held previously were regulated by different Standing Orders (S.O.) issued by the Director General of Police Himachal Pradesh from time to time. The B-1 test lastly scheduled to be held on 09.11.2025 and stayed by a detailed order passed in the present petition on 19.11.2025, was to be governed by Standing Order No. 1-2024 dated 01.01.2025.

Rule 13.7 of the Punjab Police Rules, 1934, as amended by the State of Himachal Pradesh vide notification dated 12.06.2008, provides as under for regulating the B-1 test by standing orders to be issued by the Director General of Police: -

“1) List 'B' (in Form 13.7) shall be maintained by each Superintendent of Police/ Commandant Police Battalions of Himachal Pradesh. It shall include the names of all constables selected for admission to the Promotion Course for constables at the Police Training College. Selection shall be made in the month of August every year generally. However, the Director General of Police shall have discretionary powers to hold these tests once or more than once in a year in case of exigencies keeping in view the vacancy position. The test shall be regulated by a standing order issued by the Director General of Police. All the successful

candidates shall be kept in a panel and shall be sent for lower school course on merit basis as per available vacancies. Names shall be entered in the said list In order of their merit as determined by the departmental promotion committee constituted by the Director General of Police on the basis of tests given in Parade, General Law (Indian Penal Code, Code of Criminal Procedure, Indian Evidence Act, Local and Special Laws and Police Rules as per details given below) to test the intelligence of candidates In applying their theoretical knowledge to practical conditions, Interview and examination of service records.”

The avowed objective of issuing Standing Order is to lay down the procedure for conducting the B-1 test and for selecting Constables possessing professional aptitude and competence for promotion to the rank of Head Constable. Almost all Standing Orders issued thus far have carried a stipulation that the Director General of Police has the discretion to conduct the B-1 test once or more than once in a year, in case of exigencies and keeping in view the vacancy position:-

“(2) FREQUENCY OF B-I TEST

- a) Generally, the B-1 test shall be held in the month of August every year.
- b) The Director General of Police shall have the discretion to hold the test once or more than once in a year, in case of exigencies and keeping in view the vacancy position.
- c) The announcement of the B-1 Test shall be made by issuance of an office order/circular by PHQ.

- d) The total number of vacancies against which the B-1 test is being conducted shall be duly announced/reflected in the office order/circular [Para 2(c)] issued by PHQ.”

(Extracted from Standing Order No. 1/2024)

A Constable with five years of service is eligible to appear in B-1 test. Besides Constables (General Duty), Constables posted in SV&ACB, State CID, SDRF, Battalions, Police Headquarter, Northern Range, Southern Range, Central Range and from any sub-cadre (SCRB, Driver, C&TS, Armourer, Dog Squad, Mounted Police, Band Staff, TT&R, PTC Daroh, HPIPS etc.) are also eligible to appear in B-1 test.

3. Heard learned counsel for the parties & considered the case file. The submissions made by learned Counsel for the parties & discussion thereupon have been elaborated hereinafter.

4. The issues with B-1 test

4(i) There is substance in petitioners' complaints against the B-1 test that under the existing rules, the major share i.e. 60% posts in the promotional cadre of Head Constable, are to be filled up through the B-1 test which has never been held regularly. In fact, the B-1 test has not been held for more than seven years in a row. The last B-1 test was held in the year 2017, resultantly all the constables recruited in the year 2017 or earlier, who could not

qualify the 2017 test or could not participate therein, lost out on their chances to get promoted as Head Constables from 2018 to 2025. They will now have to compete with those recruited in recent years in order to make it to the list.

The B-1 test comprises not only the written tests but also the physical tests. The irregular frequency in conducting the B-1 test and that too on the basis of Standing Orders issued differently for different B-1 tests, as per the wisdom of the Director General of Police, makes the process more problematic for the Constables. It can well be imagined that a Constable recruited years ago and performing 24×7 police duty, may have to compete with a Constable recruited in recent past in the B-1 test, now proposed to be held by the respondents. The counter-argument put forth on behalf of the respondents is that it is for the employer to frame Rules & Regulations for promoting a Constable as Head Constable; By providing separate stream for that purpose in form of B-1 test for selecting meritorious candidates, a Constable's right to be considered for promotion on normal basis, i.e. seniority-cum-fitness does not get defeated, but in order to avail out-of-turn promotion, he would have to clear the B-1 test by successfully competing with others.

4(ii) The B-1 test appears to be akin to the concept of filling up the promotional posts through limited direct recruitment. Limited direct recruitment is generally resorted to with lesser ratio than earmarked for promotion on the basis of general rule of seniority. However, for promotion from the post of Constable to that of Head Constable, this limited direct recruitment, in other words the B-1 test, takes away the major share of promotion, i.e. 60%. Only 30% of the posts of Head Constables are reserved to be filled by promotion on the basis of seniority-cum-fitness. One cannot lose sight of the fact that normal promotion ratio of 30% on the basis of seniority is also subject to fitness. The remaining 10% share for promotion to the post of Head Constable is earmarked for Constables with outstanding performance. In case, this 10% quota remains unfilled, the same also adds up to the B-1 test quota. In such a situation, the share of posts of Head Constables to be filled by promotion through limited direct recruitment (the B-1 test) can go up to 70%. The total percentage of promotional posts of Head Constables to be filled up on the basis of B-1 test, does appear to be on a very higher side.

Learned Senior Counsel for the petitioners has placed on record data suggesting that, in the State of Punjab only 25% posts of Head Constable are filled in through a competitive test. Similar is the ratio followed in Delhi Police. In Chandigarh also, only 25% posts of

Head Constables are meant to be filled up through B-1 test. In Uttarakhand, promotions to the post of Head Constable is made only on the basis of normal rule of seniority. A table placed on record in this regard is as under:-

Sr. No.	State/UT	Criteria for Promotion of Police Constables to the rank of Head Constables.
1.	Uttarakhand	100% by promotion on the basis of Seniority. [Criteria as per the Uttarakhand Police Constable and Head Constable (Civil Police, Intelligence and Armed Police) Service (Second Amendment) Rules, 2021, notified on 23.11.2021]
2.	Punjab	70% Seniority-cum-merit 25% Competitive Examination – Basic Proficiency Test 5% Achievement in Sports at National/ International Level. [Criteria as per Standing Order No. 01/2025 issued by Director General of Police, Punjab on 07.01.2025]
3.	Chandigarh	70% Seniority-cum-merit 25% Performance in B-1 Test 5% Sports Quota (All India Level or International Level) [Criteria as per amendment in Punjab Police Rules as notified on 18.06.2021]
4.	Delhi	75% Seniority-cum-suitability 25% Competitive Examination [Criteria as per the Delhi Police (Promotion and Confirmation) Rules, 1980]
5.	Haryana	62% Aggregate of Constable's Service Record, marks obtained in Lower School Entrance Test & Parade. 35% Seniority-cum-fitness 3% Outstanding performance. [Criteria as per Rule 13.7 of Punjab Police Rules as amended vide notification dated 07.08.2017]
6.	Himachal Pradesh	60% B-1 test 30% Seniority-cum-fitness 10% Outstanding performance (post remaining unfilled will go to B-1 category)

During hearing, learned Advocate General had apprised that prior to the amendment carried out by the respondent–State on 16.08.2012 in Rule 13.8 of the Punjab Police Rules, 1934, prescribing ratio of 60% (B-1 test), 30% (seniority-cum-fitness) and 10% (outstanding performance) for filling in promotional posts of Head Constables, the State of H.P. had been following the ratio of 85% (B-1 test) & 15% (others who did not pass the B-1 test). The documents placed on record reflect that the respondent-Police Department had proposed in the year 2007 (office letter dated 22.02.2007 addressed to Principal Secretary Home), for reducing the B-1 ratio from 85% to 50%, though amendment allowed in the year 2012 was up to 60%. The ratio of 60% (B-1 test), 30% (normal seniority rule) & 10% (outstanding performance) currently followed for filling in promotional posts of Head Constables was the one that was introduced by way of amendment to the Rules on 16.08.2012. Thirteen years have gone by since then. It is perhaps the need of the hour for the respondent–State to re-examine and re-consider the ratio for B-1 test in the background of other relevant factors to determine whether the same requires further rationalization or scaling down in current scenario. This also assumes significance

considering the ratio being followed by the other States (tabulated earlier) for making promotion to the post of Head Constables.

4(iii) Related to the above, another important aspect deserving notice is that, according to the petitioners, because of the B-1 test, while filling up the promotional posts of Head Constables, a Constable loses out on his promotion and does not get a meaningful right of consideration for promotion to the post of Head Constable. It has been strongly projected for the petitioners that a Constable invariably retires as a Constable even after putting in 25 to 35 years of service.

The respondents have given following sanctioned cadre strength of Constables to Inspectors of Police as on 31.10.2025: -

Rank	Sanctioned	Posted	Vacancy
Constable	13387	11003	2384
Head Constable	3145	2174	971
Assistant Sub Inspector	1262	1107	155
Sub Inspector	793	703	90
Inspector	322	286	36
Total	18909	15273	3636

As against cadre of 13,387 posts of Constables, there are only 3145 sanctioned posts of Head Constables. Out of these 3145 posts, minimum 60% to maximum of 70%, i.e. approximately 1887 to 2201 posts, are meant to be filled up by way of the B-1 test. This

is certainly a huge number for making limited direct recruitment and perhaps needs to be scaled down more so considering the cadre strength of Constables & Head Constables.

4(iv) Here it would be in place to take note of Section 104 of the Himachal Pradesh Police Act, 2007 aimed at ensuring adequate promotional avenues:-

“The State Government shall formulate policies in order to ensure adequate promotional avenues to meritorious Police Officers of all ranks.”

The current scenario of making 60% to 70% promotions to the rank of Head Constable on the basis of the B-1 test apparently does not appear to be in furtherance of providing adequate promotional avenues to the police officers especially of rank of Constables. Keeping this in view, **Sakshi Sharma & Anr. vs. State of H.P. & Ors.**² was disposed of on 18.06.2012 with 18 directions. Direction No.17 for improving conditions of service of police personnel by providing time bound promotions, being relevant for the purpose of present issue is extracted hereinafter: -

“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.

² Latest HLJ 2015(HP) Suppl. 790

(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 view of the directions, the Principal Secretary (Home) to the Government of Himachal Pradesh issued a notification on 05.11.2012 constituting a Committee for improving the conditions of service of Police personnel and also delineated its functions including providing time bound promotions as under: -

- “1. Principal Secretary/Secretary(GAD), Govt. of Himachal Pradesh,
2. Principal Secretary (Finance) to the Govt. of Himachal Pradesh,
3. Director General of Police, Himachal Pradesh or his representative.

Functions of the Committee:-

1. 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.

2. It shall be open to the committee to make other recommendations concerning welfare of police personnel.
3. The Committee shall make its recommendations within a period of three months to the Department.”

The Committee furnished its recommendations on 16.03.2013 *inter alia* on the subject of promotional avenues. The Committee, though observed that the State Government had introduced the Assured Career Progression (ACP) Scheme 4-9-14 for its employees and, therefore, there was no stagnation insofar as financial progression was concerned, however, with regard to promotional avenues, the Committee highlighted that about 85% of police officials were required to earn promotion from Constable to the rank of Head Constable only after passing the B-1 test, which only a few police personnel were able to qualify. The result, according to the Committee, was stagnation in the Police Department. In order to remove this stagnation, the Committee recommended that the B-1 test should be dispensed with and promotion to the rank of Head Constable should be made purely on the basis of seniority after passing the Lower School Course. Relevant recommendations of the Committee are as under: -

“1. Promotional Avenues:

- a) The Inspector General of Police (Southern Range), Shimla has stated that adequate promotional avenues are required to be made available to the police personnel at various levels and due to

non availability of the promotional posts, time bound promotion is not possible to be made.

b) He has stated that the posts of Head Constables should be enhanced to 2984 from 2866 in order to remove stagnation. The committee observed that there are the provisions of grant of honorary rank to Constables and the financial incentives under 4-9-14 pay scale structure is admissible to them. Due to this reason the stagnation has been curbed to some extent.

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-1 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.”

Petitioners allege that no concrete action on the above recommendations was taken by the respondents, whereas, according to the respondents, since there was no financial stagnation, no further action was needed. Respondents' stance is not realistic. The benefit of the Assured Career Progression (ACP) Scheme, i.e., granting additional increments on completion of 4-9-14 years of regular service, is not akin to regular promotion, which comes with higher pay scale, rank, status, and responsibilities.

Promotion to a higher post is a different concept from the grant of additional increment on the same post. Promotion is indeed a normal incident of service. Hon'ble Apex Court in *Food Corporation of India & Ors. vs. Parshotam Das Bansal & Ors.*³, had observed as under that provision for promotion increases efficiency while stagnation reduces efficiency and makes the service ineffective:-

"10. This Court on *O.Z. Hussain (Dr.) vs. Union of India*⁴ opined: (SCC, para 7)

"7. This Court, has on more than one occasion, pointed out that provision for promotion increases efficiency of the public service while stagnation reduces efficiency and makes the service ineffective. Promotion is thus a normal incidence of service. There too is no justification why while similarly placed officers in other ministries would have the benefit of promotion, the non-medical 'A' Group scientists in the establishment of Director General of Health Services would be deprived of such advantage. In a welfare State, it is necessary that there should be an efficient public service and, therefore, it should have been the obligation of the Ministry of Health to attend to the representations of the Council and its members and provide promotional avenue for this category of officers. It is, therefore, necessary that on the model of rules framed by the Ministry of Science and Technology with such alterations as may be necessary, appropriate rules should be framed within four months from now providing promotional avenue for the 'A' category scientists in the non-medical wing of the Directorate."

11. The question also came up for consideration in *M/s. Ujagar Prints(III) v. Union of India* [(1989) 3 SCC 531; AIR 1989 SC 972] and *Council of Scientific and Industrial Research & Anr. v. K.G.S. Bhatt & Anr.* [(1989) 4 SCC 635]. In the latter decision, this Court held: (SCC para 9)

"9 It is often said and indeed, adroitly, an organisation public or private does not 'hire a hand' but engages or

³ (2008) 5 SCC 100

⁴ 1990 Supp SCC 688: 1991 SCC (L&S) 649

employees a whole man. The person is recruited by an organisation not just for a job, but for a whole career. One must, therefore, be given an opportunity to advance. This is the oldest and most important feature of the free enterprise system. The opportunity for advancement is a requirement for progress of any organisation. It is an incentive for personnel development as well. (See: Principles of Personnel Management by Flipo Edwin B. 4th Ed. p. 246). Every management must provide realistic opportunities for promising employees to move upward. "The organisation that fails to develop a satisfactory procedure for promotion is bound to pay a severe penalty in terms of administrative costs, misallocation of personnel, low morale, and ineffectual performance, among both nonmanagerial employees and their supervisors". (See: Personnel Management by Dr. Udai Pareek p. 277). There cannot be any modern management much less any career planning, man-power development, management development etc. which is not related to a system of promotions."

12. When employees are denied an opportunity of promotion for long years (in this case 30 years) on the ground that he fell within a category of employees excluded from promotional prospect, the Superior Court will have the jurisdiction to issue necessary direction.

13. If there is no channel of promotion in respect of a particular group of officers resulting in stagnation over the years, the Court although may not issue any direction as to in which manner a scheme should be formulated or by reason thereof interfere with the operation of existing channel of promotion to the officers working in different departments and officers of the Government but the jurisdiction to issue direction to make a scheme cannot be denied to a Superior Court of the country. "

4(v) The respondents—Department had itself recognized the problem with the 'teeth-to-tail' ratio and the career progression of Constables to the post of Head Constable & above vis-à-vis the B-1 test, well before the decision in *Sakshi Sharma*¹. In fact, the Director

General of Police, Himachal Pradesh, had furnished a detailed report on 03.06.2008 on the subject of 'teeth-to-tail' ratio and career progression of Constables. The report was prepared with the objective of providing a better police service to the State for implementing the recommendations of Review Committee of the Ministry of Home Affairs (Government of India) on police reforms. In particular, recommendations were made regarding the 'teeth-to-tail' ratio in the police force to provide adequate promotional prospects for Constables.

In terms of the recommendations, Constables were to be given at least three promotions during their entire service career, with merit-based promotion criteria. The report acknowledged that the ratio between Sub Inspectors and Constables, as per the cadre strength was 1:17, resulting in very poor promotional avenues for Constables, which was one of the reasons for their low morale. The report further observed that a person joining the rank of Constable normally serves for about 36–38 years in the police department. Possibility of creating more posts in the higher ranks was also recommended to be explored.

The report also highlighted that the existing Assured Career Progression Scheme (ACP) was limited to financial benefits after prescribed years of service and did not allow promotion to the

next rank; The ACP neither met the requirements of Section 104 of the Police Act nor the recommendations of the Review Committee on police requirements; Very little public purpose is served by the ACP. The Police Department was advised to provide more professional service to the public in accordance with the 'teeth-to-tail' ratio. The report also gave certain suggestions to ensure minimum two rank promotions during the service career of a Constable.

No further action appears to have been taken on the aforesaid report. As noted earlier, the above report was subsequently followed by another set of recommendations by the Committee on 16.03.2013 for doing away with the B-1 test for promotion of Constables to the rank of Head Constable. All reports on the subject of promotional avenues are practically in hibernation till date. It would be appropriate to quote here a para from the First Report of the National Police Commission:-

“2.14 The promotional structure within the police system is not conducive to the fulfilment of the legitimate career ambitions of the constabulary. With the system of direct recruitment at the level of Sub-Inspector and the relatively meagre number of Sub-Inspectors' posts compared to the vast numbers of the constabulary, a large majority of the Constables retire as Constables without even one rank promotion in entire career. No system can remain healthy if such a large chunk of its personnel vegetate and waste out

after working for nearly 30 years in the same rank at which they entered the system.”

In view of available figures, it seems that status of Himachal Police Constabulary has not improved over the years.

4(vi) Apart from above, petitioners have also drawn attention to the alleged discrimination being meted out to Constables (General Duty) vis-à-vis Constables in other sub-cadres while making promotions to the post of Head Constable with the help of following tabulation:-

Eligibility for promotion (length of service in years)				
Wing of Police Department of H.P.	Constable to HC	HC to ASI	ASI to SI	SI to Inspector
Band Staff in Police Bands (Brass Band and Pipe Band)	8	8	8	5
Orchestra	8	8	8	5
Executive Clerical Cadre-Office Staff of the Police Organization	5	Successful completion of probation period as HC to English (Establishment) and A/c Branches.	Successful completion of probation period as HC to English (Establishment) and A/c Branches.	5
State Crime Record Bureau (Computer Cell) for Criminal Investigation (CID)	5	10	2	2 years as SI
Finger Print (CID)	Classified Course	Searcher Course	Expert Course	
Dog Squad (CID)	5	As per vacancy	As per vacancy	As per vacancy
Mountain Police	8	8	8	-
Communication and Technical Services (Wireless)	8	5	5	5
District Police (General Duty)	HC after 34 years	-	-	-
Armed Police Training/Battalion (General Duty)	HC after 34 years	-	-	-
Traffic Tourist and Railway (TTR) (General Duty)	HC after 34 years	-	-	-

The submission made for the petitioners is that a Constable in Executive Clerical Cadre (by way of example) is eligible for promotion to the post of Head Constable on completion of five years of service. Similar is the case of Constables working in other branches of the Police Department. They are given time bound promotions. They do not have to undergo B-1 test for promotion to the post of Head Constable. It is only the Constables performing General Duty, who have to undergo the B-1 test for availing right of consideration for promotion to 60% – 70% posts of Head Constable. Constables employed in other wings like Band Staff, Executive Clerical Wing, State Crime Record Bureau, Finger Print, Dog Squad, Mountain Police, Driving cadre and Communication & Technical Services do not have to undergo the said test for promotion to the post of Head Constable. This factual position has not been rebutted by the respondents. The projections of the petitioners, therefore, have an element of truth that anomalous situation exists where Sub-Cadres have been created within the Cadre of Constables where those serving in Sub-Cadres have better promotional avenues than those who serve the main Cadre i.e. Constables (General Duty). The Constables (General Duty) do not enjoy time bound promotions, they can either take the B-1 test or wait for their normal promotion

on the basis of seniority-cum-fitness which may prove to be an endless wait. Further, Constables in other wings of police department (excluding General Duty) not only have time bound promotional avenues for the post of Head Constable but they are also eligible to participate in B-1 test for promotion to the post of Head Constable or in other words Constables in other sub-cadres have multifarious channels of promotion to the post of Head Constable. For the Constables (General Duty), firstly, there are limited promotional chances which incidentally have not been provided timely thus far, and secondly major chunk of their promotional avenues i.e. 60% - 70% on the posts of Head Constable under the B-1 test is also available to the Constables of other sub-cadres who are otherwise enjoying time bound promotions as well in their own Sub-Cadre. But the vice-versa position is not available to Constables (General Duty).

4(vii) In support of holding B-1 test it has been pointed out that out of current cadre strength of 13387 Constables, 4578 have given their willingness to appear in B-1 test that was scheduled to be held in the year 2025. Suffice to note that merely because a small number of the cadre strength of Constables in desperate hope of promotion, has expressed willingness to undertake B-1 test would not mean that ailing promotional provisions do not require treatment

to bring fresh life into a stale system which requires re-examination & re-consideration after thorough deliberation by the competent authorities.

4(viii) Respondents have highlighted that though as per existing rules there is no provision for providing time bound promotion to Constables (General Duty) however subject to availability of vacancies, four promotional avenues are available to them viz. Head Constable, Assistant Sub Inspector of Police, Sub Inspector and Inspector of Police; Besides this, a Constable can get placed as Honorary Head Constable and Honorary Assistant Sub Inspector after completing 20 & 32 years of regular service as per Standing Orders issued from time to time. The counter factual argument put forth for the petitioners is that the so called four promotional avenues for Constables (General Duty) are available but only on paper; Majority of Constables (General Duty) retire as Constables even after putting in more than 25 years of service without being accorded even one promotion; The conferment of Honorary title is only for name sake. A Constable even after being conferred honorary title of Head Constable after putting in 20 plus years of service is still required to perform duties of Constable, only meagre amount of Rs. 80/- to 200/- is paid to him after conferment of the honorary title.

The above counter factual submissions which were not disputed during hearing, need to be gone into & redressed by the respondents as these have significance on the issue of B-1 test, the promotional avenues available to the Constable (General Duty).

4(ix) B-1 test has been conducted by the respondents only nine times (approximately) in last twenty-five years. Thus, due opportunity even otherwise has not been made available to Constables for appearing and qualifying B-1 test for promotion to the rank of Head Constable even though minimum 60% posts of Head Constables are to be filled up only through B-1 test. As per existing rules these 60% posts of Head Constables cannot be spread across/added to the normal promotional method of seniority (30%). The respondents have given justification for not holding the B-1 test during the years 2017 to 2022. The reason is *Bhupinder vs. State of H.P.*⁵. *Bhupinder Kumar*⁵ was a case where 234 out of 931 Constables who had qualified the B-1 test held in August 2017 were nominated for the Lower School course keeping in view the availability of vacancies in the rank of Head Constables. Those Constables who had qualified the B-1 test but were not nominated for the Course filed the writ petition with the prayer that they cannot be directed to again pass the B-1 test to be held in subsequent years and were to

⁵ CWPOA No. 3141 of 2019 decided alongwith connected matter on 04.08.2020.

be promoted as Head Constables their's having passed the B-1 test once. While deliberating over the subject matter, the Division Bench *inter alia* considered *Suresh Kumar & Ors. vs. State of Himachal Pradesh & Anr.*⁶ wherein similar situation arose. The State took shelter of a Standing Order issued on 06.04.2012 to contend that the list so prepared was valid only for one year for which the test was held, therefore, even those Constables whose names remained in the unexhausted list were required to compete again in the next B-1 test. The Court held that Standing Orders could not be issued contrary to Rules & Statute, when Rules did not prescribe for a cap of one year's validity on B-1 list, the same could not be done by way of Standing Orders. The writ petitions were allowed as under:-

“5. The sum total of above discussion is that :-

5(i) CWPOA No. 3141 of 2019 is allowed in terms of relief No. 4 of its prayer clause. Respondents are directed to send qualified Constables as per their order of merit in the State Level Merit List of B-I test (2017) for undergoing Lower School Course as and when vacancies arise in the rank of Head Constables.

5(ii) CWPOA No. 6428 of 2020 is dismissed. However, considering a grievance common to all the petitioners with respect to non holding of B-I test by the respondents for years together thereby denying the eligible Constables right of consideration for promotion to the post of Head Constables (raised by way of CMP No. 1660 of 2020 instituted by the petitioners under Order 6 Rule 17 C.P.C. seeking amendment of the petition during ongoing hearing of the case), we direct the respondents to examine in

⁶ LPA No. 158 of 2014, decided alongwith connected matters on 08.01.2016

accordance with applicable Act, Rules and Regulations, the possibility and feasibility of holding B-I test every year and sending qualified candidates therein on the basis of their State level merit in the B-I List for Lower School Course by giving preference to the qualified candidates of previous years B-I Lists and after exhausting the B-I lists of previous years in succession i.e. without tinkering with or violating in any manner the findings and observations of this Court in the judgment, dated 08.01.2016, passed in LPA No. 158 of 2014 and connected matters.”

According to the State it took many years to promote all those Constables who had qualified the 2017 B-1 test, to the rank of Head Constables. The vacancies in the cadre of Head Constable becoming available from 2018 – 2022 were filled up from Constables who had qualified B-1 test held in 2017, thus B-1 test could not be held during the duration. Firstly, this defence raises more unanswered questions about fate of a Constable, in current scenario, who qualifies the B-1 test vis-à-vis his promotion to the post of Head Constable as compared to the availability of vacancies for the post of Head Constable as also the requirement of passing the B-1 test again after qualifying it once, vis-à-vis position in the applicable Rules. Secondly, above in any case is not the reason for not regularly conducting the B-1 test prior to 2017 or after 2022. No meaningful reasons have been offered for not holding the B-1 test thereafter up to 2025.

The respondents have also relied upon *Roshan Lal & Ors. vs. State of Himachal Pradesh & anr.*⁷, wherein, Standing Order dated 02.01.2017 relating to minimum qualifying marks criteria for clearing the B-1 test was questioned. The writ petitions were dismissed as under:-

“25. No doubt, on account of the fact that after 2017 respondents have not conducted B-1 test and all the vacancies occurring in the subsequent years are being filled up on the basis of merit list prepared for B-1 examination conducted in the year 2017, petitioners herein are unable to participate in examination, which otherwise as per Standing Order is/was required to be conducted every year, but since it already stands decided by the Division Bench of this Court that constable after his/her having cleared B-1 test is not required to sit in test again, rather his candidature shall be considered for the vacancy of subsequent years, no fault, if any, can be said to have been committed by the respondents by offering appointments to 931 candidates, who had qualified the examination in the year 2017 at first instance. No doubt, serious prejudice can be said to have been caused to the petitioners on account of the fact that no test has been held after 2017, but petitioners, who after their having participated in the test conducted in 2017 remained mum for good five years cannot be compensated in any terms at this stage, rather they shall have to try their luck again in examination otherwise undertaken to be conducted every year henceforth.”

*Roshan Lal*⁷ is not a verdict on the justiciability of B-1 test as is sought to be projected by the State. The said question was not

⁷ CWP No. 8907 of 2022, decided alongwith connected matters on 22.04.2025.

even involved in the aforesaid case. The issues raised herein were not deliberated there.

4(x) The inconsistency between Standing Orders & the Rules, fallout of practice of respondent-State in following archaic Punjab Police Rules in modern times, respondent-State not framing its own Rules despite the mandate under the Statue framed by the State in 2007, were noticed in *Suresh Kumar*⁶ as under:-

“17. It would be noticed that the amendment to rule 13.7 Punjab Police (Himachal Pradesh Amendment) Rules, 2008, was made by virtue of the powers conferred by the Himachal Pradesh Police Act, 2007 whereby the Government had specifically deleted the requirement of appearing in B-1 test by those Constables, who were not sent to Lower School Course within one year of preparation of list. Therefore, in such circumstances, it was impermissible for the Director General of Police to have issued standing orders which infact were contrary not only to the letter but even the spirit and in utter violation and contravention of Rule 13.7 of the Rules.

18. In case, it would have been the intention of the Government to restrict the validity of list B-1 to only one year, we see no reason why the same could not have been provided in the rules themselves which as observed earlier came to be amended only in the year 2008. It cannot be disputed that the power to issue standing orders by the Director General of Police is subject to the rules and regulations and the H.P. Police Act, 2007.

19. Even otherwise, it is more than settled that the executive instructions/standing orders cannot over-ride or supersede the rules and, therefore, what was contemplated by the rules and consciously deleted vide amendment carried out in the year 2008 could not have been reintroduced by way of standing orders.

20. That apart, it would also be noticed that the Director General of Police in terms of Rule 13.7 has been vested with discretionary power to hold the test once or more in a year in case of exigencies keeping in view the vacancy position. The other power which has been vested with the Director General of Police is to issue standing orders, but this is confined to the manner in which the test is to be regulated. It does not in any manner confer upon the Director General of Police any other power to add or subtract anything to this rule. Even, under Section 143 of the Act though the Director General of Police is authorized to issue standing orders to carry out the performance of the Act, however, even this power is subject to the rules and regulations made under the Act.

21. Therefore, we have no hesitation to hold that once the rules did not prescribe for a cap or time period of one year validity of the HPPR list, the same could not have been prescribed by issuing standing orders as the same is in conflict with the rules.

... ..

23. Once the Constables have successfully competed B-1 test and were admittedly not sent for the Lower School Course only because of Clause 16 of the standing orders, we see no reason why they should be subjected to again undergo a test.

24. It would be noticed that the only reason which persuaded and prevailed upon the learned writ Court to dismiss the writ petitions was that it treated the list B-1 as a select panel and concluded that the same was valid for one year. This was not the correct legal position as the select list is the list which is normally prepared by the Selection Committee out of the candidates, who are considered fit for appointment in order of their merit. Whereas, B-1 enlisted candidates are those successful candidates, who have qualified the B-1 test and would be required to be sent to Lower School Course. It is only after successful passing of this Course that they would be entitled to be considered for promotion as Head constables. The mere passing of the B-1 test in itself

does not result in promotion and, therefore, by any stretch of imagination can be considered to be a select panel.

25. In view of the aforesaid discussion, we find merit in these appeals and writ petition. Consequently, the judgment passed by the learned writ Court is ordered to be set aside and resultantly the writ petitions as filed by the writ petitioners are allowed as prayed for.

26. However, before parting, it may be observed that the instant litigation has arisen only because of lack of clarity and confusion created by the respondents themselves by not having clear-cut and well-defined rules. For some strange reasons, the respondents have still chosen to follow the Punjab Police Rules, 1934 by amending the same to suit their convenience. Therefore, it is high time that the respondents liberate themselves from the shackles of the archaic Punjab Police Rules, 1934, which were enacted more than 80 years back during colonial regime and make an endeavour to frame their own rules or else this would lead to un-necessary complication giving rise to compulsive litigation, the consequences whereof would only lead to a further docket explosion of the already over-burdened Courts and Tribunals.

27. With the aforesaid observations, the appeals as well as writ petition are accordingly disposed of alongwith all pending applications, leaving the parties to bear their own costs. The Registry is directed to place a copy of this judgment on the files of connected matters.”

Almost ten years have gone by. Respondents-State has still not liberated itself from following the Punjab Police Rules, 1934.

5. By now it is well settled that *‘Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions*

of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy and within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the Statutory Tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for

ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a Government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service' [Reference: ***P.U. Joshi & Ors. Vs. Accountant General, Ahmedabad & Ors.***⁸].

It is certainly for the respondent-employer to make provisions for recruitment and promotion to the posts in accordance with its requirements & administrative exigencies. The Court cannot substitute its opinion on the subject with that of the employer, who is the best judge of its needs. There is nothing wrong with providing opportunity to meritorious Constables to get accelerated promotion but the system has to be such that at the same time Constables who cannot get accelerated promotions, also have fair opportunity of promotion to the rank of Head Constable on the basis of their seniority-cum-merit (fitness). The facts & issues highlighted by the petitioners leave a very strong impression that all is not well with the current system practised by the employer for making promotions to the post of Head Constable; That the B-1 test in its current form is not conducive for promotion of Constables to the rank of Head Constable. The existing format of making promotions to the post of

⁸ (2003) 2 SCC 632

Head Constable is flawed and adversely affects Constables, has been acknowledged by none else but the employer in its several detailed reports. By ignoring its own reports and pushing them beneath the carpet, by brushing aside the tell tale symptoms of an ailing promotional system that is crying out for fresh treatment to keep pace with the marching time, will not cast away the problems. They will still be there waiting for cupboard to be opened to come out spilling from the shelf. It is not for the Court to interfere with the domain that lies exclusively with the respondents/employer. Being a model employer, it is the duty of the State to ensure equality & fairness in promotional matters. But if the employer tends to look the other way – as an adversarial litigator, the Court cannot be a mute spectator and close its eyes to the emerging picture. While the right to promotion may not be a fundamental right, the right to be fairly considered for promotion certainly flows from guarantee of equality under the Constitution. In the given facts & circumstances, the Court will be failing in its duty if it does not direct and compel the respondent employer to have an introspection not cosmetic but thorough & in-depth deliberation of all the issues being highlighted not just by the petitioners but by its own higher ups in past in several reports and to redress the same. It is high time for the employer to take stock of all the piled up issues concerning promotions of

Constables to the posts of Head Constable in a manner befitting to a model, neutral, fair & welfare oriented employer and not as an adversary in the ever denial mode to a normal litigation. With that object, it is deemed appropriate to constitute following Committee, which will look into entire gamut of making promotions of Constables to the rank of Head Constable especially those discharging General Duty service:-

- i) Principal Secretary (Home) to the Govt. of H.P. (Chairman).
- ii). Principal Secretary (Personnel) to the Govt. of H.P.
- iii) Director General of Police, H.P.
- iv) Legal Remembrancer-cum-Principal Secretary (Law),
- v) Addl. Director General of Police (Criminal Investigation Department),
- vi) Addl. Director General of Police (Law & Order),
- vii) Addl. Director General of Police (Armed Police & Training),
- viii) Inspector General of Police (Communication & Technical Services),
- ix) Inspector General of Police (Southern Range), Shimla.
- x) Inspector General of Police (Northern Range), Dharamshala.
- xi) Inspector General of Police (Central Range), Mandi.
- xii) Deputy Inspector General (Traffic Tourist & Railway).

The Committee shall impartially delve into all the related issues including those highlighted above as also the reports already available on the subject and make its recommendations in accordance with law on all aspects *inter alia* keeping in view the observations made hereto above. It shall be open for the Committee to have multiple meetings and requisition all relevant data from concerned quarters/offices etc. for all its Members to enable them to furnish their views on the subject. The report of the Committee be placed on record during next hearing of the case.

List on 06.03.2026.

**Jyotsna Rewal Dua,
Judge**

December 30, 2025 (PK/Rohit)