

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

Civil Appeal No(s). 220/2011

THE STATE OF HARYANA & ORS.

Appellant(s)

VERSUS

OM PRAKASH ASI

Respondent(s)

O R D E R

The respondent was recruited as a constable in the Haryana Police on 30.5.1972 and earned his promotion as a Head Constable on 21.1.1985 on ad hoc basis. The respondent was confirmed as Head Constable vide order dated 21.12.2004 after certain judicial proceedings dealing with the issue of fixation of seniority and was shown as ASI w.e.f. 12.10.1999 with deemed date of promotion as ASI taken as on 22.5.1996.

The appellants however, found that a number of undue service benefits had been awarded to the respondent and they withdrew the aforesaid order on 29.12.2005. The seniority of the respondent was also refixed.

The appellant thus approached the High Court by filing a Writ Petition.

The High Court of Punjab & Haryana in terms of the impugned order of the Division Bench dated 14.3.2008 has quashed the endeavour of the appellant(s) aforesaid in terms of the Department's order dated 29.12.2005. It has been found that the respondent was promoted to the post of Head Constable against two per cent seats reserved for distinguished sports persons. He was

due for confirmation in March, 1999 when his record was found to be very good and as on that date he was facing no departmental enquiry nor he was involved in any criminal case. The officers junior to the respondent had in fact been promoted to the higher post of Assistant Sub-Inspectors. In view of all these facts and there being no reason recorded as to why the action was taken by the appellant(s) vide its order dated 29.12.2005, these proceedings were quashed by the High Court. It may also be noted that the Court found that the promotion of the respondent was against a regular vacancy and within the prescribed quota.

Though leave was granted in the in present case on 7.1.2011, no interim order has been operating, more so when the respondent is stated to have retired in the year 2009 itself. Thus, there is no aspect of now continuity of service of the respondent involved but only of seeking to recover the benefit to him.

Learned counsel for the appellant(s) sought to raise the plea before us that the respondent was involved in some criminal case but then learned counsel for the respondent informs that the same has resulted in acquittal and an order in that behalf is already placed on record.

On examination of the pleadings of the learned counsel, we do not find fault with the reasoning of the High Court. The High Court has taken note of the fact that the promotion of the respondent was against a regular vacancy within prescribed quota, his juniors had been promoted, his service record was very good, and that his promotion was also against two percent seats reserved for distinguished sports persons. This reasoning cannot be faulted.

The subsequent developments of course is that respondent has already been compulsorily retired and to now reverse the order would amount to withdrawing the benefits which have accrued to him.

For the aforesaid reasons, we are not inclined to interfere with the impugned order.

The appeal is dismissed.

Parties to bear their own costs.

.....J.  
[SANJAY KISHAN KAUL]

.....J.  
[K.M. JOSEPH]

NEW DELHI;  
AUGUST 14, 2019.

ITEM NO.103

COURT NO.9

SECTION IV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

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Date : 14-08-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE K.M. JOSEPHFor Appellant(s) Mr. Sunil Kr. Jha, Adv.  
Dr. Monika Gusain, AOR  
Mr. Naresh Bakshi, AORFor Respondent(s) Mr. Akhilesh Kumar Pandey, AOR  
Ms. Sunita, Adv.UPON hearing the counsel the Court made the following  
O R D E R

The appeal is dismissed in terms of the signed order.

Pending application, if any, stands disposed of.

(ASHA SUNDRIYAL)  
COURT MASTER(ANITA RANI AHUJA)  
COURT MASTER

[Signed order is placed on the file]