

SPEAKING ORDER

Inspector Pardeep Singh & others and similar 9 other CWPs were filed in the Hon'ble High Court demanding promotion as Sub Inspectors from the dates their juniors in PAP were promoted in the rank of DSPs. They further demanded that District Police and Armed Police is one service under rule 1.1 and 1.3 of the Punjab Police Rules, 1934.

The Hon'ble High Court passed order/directions on 16.12.2014 in CWP No. 4829 of 2011. The operative part of order dated 16.12.2014 is as under :

“the aforesaid question posed before this Court is thus answered as above and it declared that prior to 2008, the respondents would be obliged to maintain a common seniority for both the categories i.e. PAP and District Police.

In one of the petitions, i.e. C.W.P No. 6501 of 2013 , learned counsel for the private respondents has raised the issue of delay to contend that the matter has been agitated belatedly. I would not treat this plea to be worthy of acceptance considering the fact that the seniority stood recast in the year 2011 and the first petition in this regard was filed in 2011 itself. The plea is therefore, rejected.

The petitions are thus disposed of with a mandate to the respondents to recast the seniority of the officers by keeping in view the observations of this court. The respondents would do well to give wide publicity to the exercise proposed to be undertaken and invite the claims and objections from all affected so as to obviate the chances of any objection on this score. While dealing with the matter, the respondents would be at liberty to take an appropriate decision in regard to the individual claims and pass speaking orders in this regard.”

2. In compliance with the order/direction of the Hon'ble High Court, a tentative seniority list of ASIs (Distt. & PAP) was prepared and was uploaded on 11.11.2017 on the website of Punjab Police for claims/objections. 67 officers/officials have submitted representations/ objections against the tentative seniority . They were called for personal hearing on 27.11.2017. The following issues were raised and discussed by the officers committee and decided as under:-

ISSUE RAISED BY:- 1. Inspr. Amrit Sarup Dogra No. 257/BR, 2. Inspr. Mohan Singh No. 54/JR, 3. Inspr. Varinder Kumar No. 104/JR, 4. Inspr. Sanjeev Kumar No. 398/PR, 5. Inspr. Sampuran Singh No. 95/PR, 6. Inspr. Parminder Singh No. 100/PR, 7. Inspr. Sanjeev Kumar No. 338/BR, 8. Inspr. Ravinder Singh No. 290/BR,

9.Inspr. Kulwinder Kumar No. 324/BR, 10. Insp. Sukhbir Singh No. 103/PR, 11.Inspr. Sanjeev Kumar No. 55/JR, 12. Insp. Preet Kanwaljit Singh No. 1/PR, 13. Insp. Sukhwinder Singh No. 114/PR, 14. Insp. Om Parkash No. 432/JR, 15. Insp. Sarabjit Singh No. 140/JR, 16. Insp. Harbhajan Singh No. 50/FDR, 17. Insp. Nachhatar Singh No. 312/BR, 18. Insp. Sarwan Singh No. 175/JR, 19. Insp. Manmohan Singh 79, 20 Insp. Rajnish Kumar No. 94/PR, 21, Insp. Mukesh Kumar No. 256/BR, 22.Inspr. Manjit Singh No. 20/J, 23. Insp. Murlidhar No. 10/J, 24.Inspr. Harsimran Singh 69/JR,92/PR, 25 Insp. Pardeep Singh No. 247/PR

Issue No. 1

They have raised issue that the Department has granted excess revised date of promotion to the promotee ASIs beyond the sanctioned strength without keeping in mind the official record. The revised date of promotion to promotee ASIs between 1988 to 2008 should be reduced and withdrawn .

As per order of the Hon'ble High Court PAP is not separate cadre. As such, the seniority of Distt. & PAP is to prepared jointly upto 20.02.2008. Besides, PAP and Districts, there were other wings in the Police department i.e. Intelligence, Crime, Security, Vigilance Bureau,PSPCL etc.in which Govt had duly sanctioned the posts in the rank of Constables onwards. As per provisions of rule 21.25 of Punjab Police Rules upper and lower subordinate posts in the C.I.D which may filled by deputation of suitable men from districts. It is also mentioned that in other wings these posts are also filled up from districts as well as Armed police on deputation basis against sanctioned posts by the Government . As such, the officials can be promoted against the posts vacated by the officials on deputation for smooth functioning of districts and Armed wing . As per provisions in this rule, if any official returns from deputation, then, if there is no vacancy, junior most official can be reverted. The posts vacated by officials (Deputationists) are filled up from amongst the other officials of districts as per seniorities and instructions issued from time to time. Hence, the claim of the officials that the officials may not be promoted against these deputation posts can not be accepted.

However, it is found that as on 20.02.2008 the total serving ASI's were 3057 whereas the sanctioned strength of ASIs is 3117 (i.e. Distt. 2664, Armed Wing 453) Besides this 448 posts of ASIs are sanctioned in Intelligence, Crime and security wing,).

In view of the above the question raised by the representationists is hereby rejected.

Issue No. 2

They have submitted objections that the seniority of P/ASIs batches have been prepared, keeping in view marks obtained at the time of their recruitment as per Govt. instructions issued from time to time. Their seniority have been fixed to after implementing Ajit Singh Janjua Judgment earlier. Contrary to this no column showing merit marks obtained by probationer ASIs at that time of selection is given in the list. Moreover, reserved category having less marks obtained at the time of selection are given the above seniority are given to the general category candidates having higher marks obtained at the time of selection. This is clear cut non compliance of Ajit Singh Janjua judgment and PPR 12.2 (3). The waiting list of P/ASIs have not been assigned the marks obtained at the time of selection in this list.

Candidates on waiting lists cover the part of same selection process. As such, they are entitled to be placed immediately below the selected candidates. It is also recommended that this procedure may also be adopted in similar cases. As regard other claim of these officials that their seniority may be re-fixed keeping in view the marks obtained at time of their recruitment, they have been assigned seniority on the basis of the marks by the candidates of selection lists and waiting lists.

Issue No.3

They have submitted that the Hon'ble Supreme Court of India judgment –S.I Paras Kumar -2004 have not been considered and complied rather the out of turn promotees more than 10% of quota, who had been given one time of re-appointment/re-adjustment/re-recruitment in the year 2006 under the sports category alongwith retrospective seniority from 05.12.03. They further mentioned that the Hon'ble Punjab and Haryana High Court has already passed directions in COCP 1492/2015 that above Apex court judgment must be considered while re-casting of seniority. Besides this, Inspector Rajnish Kumar No. 94/PR also requested that the names of police personnel i.e. 207+393+41 may be considered and included in the list of seniority and the names of 295 police personnel re-appointed on the same rank which from where they were reverted with the order of Hon'ble High Court in CWP No. 13788 of 1997 may be re-considered.

S.I Swaran Singh and others filed CWPs in the Hon'ble High Court that the officials who were promoted over and above the special quota 10% from list C-II be reverted from and eligible persons be promoted against these posts. The Hon'ble High Court

decided that Head Constable from list C-II should not be more than 10% of the cadre strength.

In compliance with the judgment dated 21.04.98 passed by the Hon'ble Court in CWP No. 13788 of 1997, it was found that 431 HCs were promoted over and above 10 % quota from list C-II in PAP were reverted. After consideration all the matter at the Govt. Level, State Govt. created 295 posts (Ex-Cadre) for sportsmen in PAP in different ranks in the year 2003. There after vide letter dated 28.12.06, Govt. had created cadre posts and these sportspersons were adjusted in the same rank, which they were holding w.e.f 05.12.2003. As such, the Judgment in SI Paras Kumar-2004 of Hon'ble Supreme Court of India, was fully implemented.

The Govt. created 207 dying cadre posts of sportsperson, 393 dying cadre post for those person who were promoted in excess of over and above 10 % quota from list C-II and 41 dying cadre posts for officials of Armed cadre. The posts vacated by these officials are also given to deserving persons as per seniority. If they are included in seniority in lower ranks as per list C-II, then they may occupy seats in the rank of HC, ASI and in higher rank also. This will create another anomaly. As such, names of 295 sportsperons, who have been re-appointed against newly sanctioned cadre posts are required to be included in the seniority list and names of other person (393+207+41) are not required to be included in the seniority list. As such, the claim of the representationists is hereby rejected.

Issue No.4 The ladies who were assigned promotions during the period from 2002 to 2008 against the women quota should be considered at par with their male counterparts. As there is no provision in PPR regarding their separate cadre.

The Govt. vide Notification dated 15.06.1990 added the following proviso in the P.P.Rule 1.1:-

“Provided that each of the Tele-communication, Finger print Bureau, Women police wing, Band staff, Mounted police, Armourers and Executive Clerical cadre is uniform clerical functions posted in the various subordinate offices shall form its separate cadre.”

According to this proviso Women Cadre was made separate cadre and female officials were granted promotions in their own cadre. In the year 2009 it was decided that Lady Insprs, Lady SIs and Lady ASIs will be merged in the general male cadre of the District police based on their date of promotion in the present rank. Accordingly, new seniority list will be prepared. In future, Lady &

man Police officials will be jointly sent for various promotional courses.

The Govt vide notification dated 25.07.2012 omitted the proviso below rule 1.1 of Punjab Police Rules 1934.

In view of above, Ladies are placed correctly in the seniority list. Thus, the plea taken by the representationists is hereby rejected.

2) **ISSUE RAISED BY:-** 1.DSP/CR Deepak Rai No. 771/PAP, 2. DSP/CR Bhagwan Singh No. 317/PAP, 3. DSP/CR Tulsi Dass No. 896/PAP-3rd CDO, 4. DSP/CR Ramesh Chander No. 578/PAP, 5. DSP/CR Manjit Singh No. 612/PAP

Issue No.1

They raised objections that LPA No. 190, 411 and 1042 of 2015 are pending for decision in the Hon'ble High Court. The Hon'ble Court had ordered on 25.08.15 that "to be listed for regular hearing within six months. Any seniority finalized interms of the impugned orders shall be subject to the decision of these appeals. Besides this, the Hon'ble Court had ordered to re-cast the seniority on list 'D'. As such, seniority may not be finalized till the decision of these LPAs.

The decision of LPA No. 190, 411 and 1042/2015 are pending for decision in the Hon'ble High Court. The Hon'ble High Court vide order dated 25.08.2015 did not stay the matter. The seniority is being re-casted as per the order of Hon'ble High Court in COCP No. 1492 of 2015 in CWP No. 4829/2011. As such, their claim is hereby rejected.

Issue No.2 The petitioners of COCP No. 1492/2015 are probationer ASIs of 1992 batch. As such, the seniority may be re-cast from the year 1992.

Rule 13.8 of Punjab Police Rules pertaining to the promotion to the rank of Head Constable from Constables. The date of admission to list C is not material but it is as per merit obtained in Lower School Course. The committee has seen that a large part of problem of heart burning due to quicker promotion of some officials vis-a-vis others has been due to non maintenance of even flow of promotions across the districts and Ranges. Thus to ensure that even flow of promotion is maintained in the Punjab, a common

seniority lists since 1975 should be maintained. Therefore, such common seniority list should be maintained from atleast 1975.

The reasoning for this cut off date is that the last promottees (list C-1 1975) in the year 1975 were in service as on 20.02.2008. Thus, inter-se seniority between direct recruit ASIs and promottees would not get effected any body promoted prior to 1975. The claim of the applicant is rejected being devoid of force.

Issue No.3

They raised objections that the common condition rules may be implemented w.e.f 28.02.03 instead of 04.05.94.

The Govt. vide notification dated 04.05.1994 have framed Punjab Civil Services (General and common condition of service) rules in which it is clearly mentioned that they shall apply to all posts Group-A, B & C services in connection with the affairs with the State of Punjab. As such, these rules are rightly implemented i.e from the date of notification (04.05.1994).

Issue No.4

They raised objection that date of list 'D' and date of promotion as ASI may not be changed because the Hon'ble High Court has not given directions change the said dates.

The Hon'ble High court has ordered that there is no provisions in the rules regarding separate cadre of PAP and the seniority list of Distt. and Armed cadre is to be prepared commonly upto 20.02.2008 i.e. from the date Punjab Police Act came into force. As such, the objection raised by the applicant is hereby rejected.

Issue No. 5

They raised objection that seniority of HCs/ASIs and SIs of PAP should be prepared in the office of ADGP/Armed Bns. and seniority of ASI and SI of Districts should be prepared in the office of DIG/Ranges. Inspector level seniority should be prepared in the office of DGP.

The Hon'ble High Court has directed that there is no provisions in rule regarding separate cadre of PAP and the seniority of Distt. and Armed cadre is to be prepared commonly upto 20.02.2008 i.e. Punjab Police Act came into force. As such, the objection raised by the applicant is hereby rejected.

Issue No. 6

They have raised objections that PPR 12.3 may be implemented. P/ASIs recruited in excess of quota total 752 from year 1988 to 1992 at the ratio of 75 promotees and 25 P/ASIs should only be considered in the common seniority list. Govt. of Punjab, Department of Home Affairs and Justice vide Order No. 15/157/2008-1H3/3053-55 dated 07.09.10, seniority list of PPS Officers have been followed at the ratio of 4.1 under PPR 1959 as per the direction of Punjab and Haryana High Court.

As per provision in the rule 12.3 of Punjab Police Rules, direct appointment of ASI can be made upto 25% of vacancies. No post of ASI was filled by the direct recruitment prior to year 1988. There were 1250 posts of ASIs were sanctioned, their the share of direct appointment was works out to be 312. If the Rule 12.3 was implemented at appropriate times then all the posts mentioned for direct recruits could be filled up. Whereas, only 164 ASIs (Direct recruited) were available and there is backlog of 148 post of ASI of direct recruits. As such, it was decided in the year 1988 to fillup the backlog of direct recruits and 110 (75+35) posts by direct recruitment. Similarly, this procedure was adopted in subsequently recruitments.

Issue No. 7

They raised objection that Punjab Police Rules, 13.10 may be followed in the common seniority list

The tentative seniority list has been prepared in the rank of ASI on the basis seniority list of HCs and directly recruited ASIs. Rule 13.10 of PPR provides list-E selection for promotion course for ASIs and promotion to the rank of Sub-Inspector. As such, rule 13.10 is not applicable the seniority of ASI.

Issue No. 8

They raised objection that standing order No. 1/1999 for promotion of NGOs of Punjab Police was prepared in the year 2001. As per standing order combined seniority of District and GRP was required to be re-casted and seniority of PAP was required to be re-casted separately in the office of ADGP/Armed Bns. Jalandhar Cantt.

Standing Order No. 1/1999 for promotion of NGOs of Punjab Police was prepared in the year 2001. As per Standing Order combined seniority of District, GRP and Armed Cadre was required to recast. But later on it was decided that the seniority of PAP was required be recast separately. However, the Hon'ble High Court in CWP No.4829 of 2011 has ordered that there is no provision in rules regarding separate cadre of Armed Battalions. As such, a common seniority of PAP & Districts upto 2008 is to be recast.

As such, the combined seniority list of PAP and District is prepared keeping in view the order of Hon'ble High Court. Hence, the question of the applicants is hereby rejected.

Issue No. 9

They raised objections that the nature of duty of District Police and PAP is different. District Police performed the duty in the police stations and investigation of criminal cases. Whereas, PAP personnel perform the security duty, gunman, escort and guard duties etc. Besides this, B-I test for promotion courses of Head Constables of District Police and PAP are also different.

The Hon'ble High Court has ordered that common seniority of PAP & Districts upto 2008 may be re-casted. As such, the question of the representationists is hereby rejected.

Issue No. 10

They have raised objections that in the year 1995 to 2001, Upper School Course of Armed Cadres was held up and seats of Armed Bns. were allotted to District Police for Upper School Course of P/ASIs. In the year, 2010, Govt. of Punjab Department of Home Affaris vide his memo No. 9/41/2009-6H3/228 dated 29.01.10, posts of Head Constables=600, ASIs=400, SIs=400, Inspector=200 Total=1600 new posts were allotted to District Police. No new posts had been given to Armed Bns.

Punjab Police Act 2007 came into force w.e.f 20.02.2008. Moreover the Hon'ble High Court has also ordered to maintain common seniority for both PAP and Distt Cadre. As per provisions of Police Act, PAP and Distt are separate cadres. In the year, 2010, Govt. of Punjab Department of Home Affaris vide his memo No. 9/41/2009-6H3/228 dated 29.01.10 created 1600 new posts (Head Constables=600, ASIs=400, SIs=400, Inspector=200) for District Cadres only. However, State Govt. had created 100 posts

of Inspectors and 700 posts of ASIs in the year 2016. As such, the claim of the applicant is hereby rejected.

Issue No. 11 They have raised objections that common condition rules, 1994 should not be implemented in the common seniority. Seniority should be prepared as per Punjab Police Rules, 1934.

Recommendations of the Committee

The Govt. of Punjab vide their notification dated 04.05.1994 have framed Punjab Civil Services (General and common condition of service) rules in which it is clearly mentioned that they shall apply to all posts Group-A, B & C services in connection with the affairs with the State of Punjab. As such, these rules are rightly implemented i.e from the date of notification (04.05.1994).

1) **ISSUE RAISED BY:-** Smt. Rajwant Kaur No. 273/PR (1571/SGR) Assistant Commandant, Ist IRB, Patiala.

Issue No. 1 She has raised objections that in the year 1986-87, she was promoted as ASI on 28.04.87 in the ladies quota. She was deputed for Intermediate School Course in a special batch. As such, her date of ASI may not be changed.

As per order of merit list of Lower School Course, she was given revised date of promotion w.e.f 07.04.81 in the rank of Head Constable and 01.10.91 as ASI instead of 28.04.87. The seniority list is being re-cast as per the merit list of C-I. There was no separate cadre for ladies. The Govt of Punjab issued a notification with regard to separate cadre of Ladies in the year 1990. As such, she cannot be given promotion in the rank of ASI against ladies quota prior to 1990.

1) **ISSUE RAISED BY:-** Smt. Kashmir Kaur No. 500/FZR

Issue No. 1 She has raised objection that she has been promoted as DSP by State Govt. vide letter No. 84284/2011-1H3/771 dated 26.03.12 and as SP vide letter No. 1/34/2016-3111/1080 dated 25.04.16. Now she is working as SP/Crime, Ferozepur. She further requested that her seniority may not be changed.

As per order of merit list of Lower School Course, she has been given revised date of promotion w.e.f 20.06.86 in the rank of Head Constable and 20.03.01 as ASI instead of 15.04.89. The seniority list is being re-cast as per the merit list of C-I. There was no separate cadre for ladies. The Govt of Punjab issued a notification with regard to separate cadre of Ladies in the year 1990. As such, she cannot be given promotion in the rank of ASI against ladies quota prior to 1990.

1) Issue Raised by :- P/ASI Harjit Singh No. BTRT-117

Issue No. 1 He has raised objection that he has been appointed as probationer ASIs in district Bathinda and joined his duty on 03.10.17. He has also been allotted range number BTRT/117. As such his name may be entered in the seniority list at appropriate place.

As per the directions of the Govt. he has been given seniority notional promotion/regular promotion and fixation of pay as per his merit with batch-mates (1998)but would not be entitled to any back wages vide this office order No. 9998-10004/E-I(4) dated 18.09.2017. As such, his name is required to be entered in the seniority list of ASIs at the bottom of 1998 batch P/ASIs.

Therefore, his name may be entered at the bottom of 1998 batch P/ASIs.

1) Issue Raised by :- ASI Mohinder Singh No. 536/FGS, Inspr. Harbans Singh 576/GRP

Issue No. 1 They were requested that their names may be entered in the seniority list of ASIs.

SI Harbans Singh No. 576/GRP, and SI Mohinder Singh No. 536/FGS were brought on brought on list C-II w.e.f 15.05.89 and **27.11.1990 respectively**. Official who was on list C-II w.e.f 04.12.87 has been considered for promotion to the rank of ASI w.e.f 15.01.08. The joint seniority list of ASIs has been prepared upto 19.02.08 only. As such, these officials will be considered in the rank of ASI as per their seniority of list C-II.

1) **Issue Raised** by :- RETD. DSP Opinder Kumar No. 854/JR 207/KPT

Issue No. 1 RETD DSP Opinder Kumar No. 207/KPT has requested that ASI Baldev Singh No. 1017/Jal, 1017/ASR is junior to him in the seniority of Head Constable. His name in the seniority of ASI is correct but in the seniority of Sub-Inspector has not been mentioned in appropriate place.

These officials have raised objections that they are senior in the rank of ASI but their juniors have been given revised date of promotion in the rank of Sub Inspector prior to them as such their names may be placed in the rank of S.I above their juniors. The seniority of Sub Inspector has not prepared so far as such, the claim will be considered at appropriate time.

1) Issued Raised by : Inspr. Kulwant Singh 356/BR

Issue No. 1 : Inspr. Kulwant Singh 356/BR has requested that he was appointed as ASI and his merit number was written 135 in the earlier seniority list. But in the revised seniority list my merit number has been written as 199 which is not correct. He has requested that he be placed at merit no. 135 and accordingly.

The Hon`ble High Court has given directions to implement the judgment of Hon`ble Supreme Court of India "Ajit Singh Janjua". As per the instruction issued by the Govt. time to time reservation registers/roster register are only an aid to ensure that scheduled castes, scheduled tribes and other backward classes get quota reserved for them. These registers/roster registers do not determine seniority. Accordingly, the seniority of probationer ASIs has been re-casted on the basis of marks obtained at the time of their appointment. The claim of the applicant is declined being devoid of force.

1) Issued Raised by : Retd Inspr. Sajjan Singh No. 598/FDK (200/FDK)

Issue No. 1 : He has requested that his name has not been entered in the tentative seniority of ASIs. As such, corrections may be made.

He was brought on list C-I w.e.f 19.08.67 and subsequently promoted to the rank of Head Constable w.e.f 04.12.69. The seniority in the rank of Head Constable has been prepared w.e.f 01.01.75 onwards. As such, his name was not entered in the seniority list of Head Constable. The seniority of ASI has been prepared on the basis of Head Constables. The name of the applicant has not been mentioned in the seniority of Head Constables. He retired in the year 1995 in the rank of Inspector. As such, no action is required to be taken at this stage.

1) Issued Raised by : ASI Paramjit Singh No. 646/SAS Nagar, ASI Atam Jit No. 75/PTL, ASI Paramjit Singh No. 1115/RPR, ASI Didar Singh No. 59/SAS Nagar

Issue No. 1: They have raised objection that officials of D-II and ladies have been shown whose names were brought on list C-I on 01.10.1990.

The Govt. of Punjab vide their Notification dated 15.06.1990 added the following proviso in rule 1.1:-

"Provided that each of the Tele-communication, Finger print Bureau, Women police wing, Band staff, Mounted police, Armourers and Executive Clerical cadre is uniform clerical functions posted in the various subordinate offices shall form its separate cadre."

According to this proviso Women Cadre was made separate cadre and female officials were granted promotions in their own cadre. The Govt of Punjab vide notification dated 25.07.2012 omitted this provision.

In view of above, Ladies are placed correctly in the seniority list. Thus, the plea taken by the representationist is hereby rejected.

This is being issued with the approval of D.G.P.

A copy of this order may please be given to each official/officer under his own signatures.

Dated : 11.12.2017

Sd/-
D.I.G/Admn
for Director General of Police,

Punjab.