

Anoop Kumar vs State Of Haryana on 15 January, 2020

Author: Chief Justice

Bench: Chief Justice, B.R. Gavai, Surya Kant

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.315 OF 2020
(ARISING OUT OF SLP(C) NO.18321 OF 2011)

ANOO P KUMAR & ANR.

APPELLANT

VERSUS

STATE OF HARYANA & ORS.

RESPONDENT

O R D E R

The present petitioners filed a writ petition being Civil Writ Petition No.9808/2005 for a declaration that they should be declared passed as per the decision of the Board and for a further declaration that the Director General of Police (for short, the 'DGP') has no jurisdiction to reverse the recommendations of the Board. By order dated 25.01.2007, learned Single Judge of the High Court of Punjab and Haryana at Chandigarh, dismissed the said writ petition. Being aggrieved, the petitioners filed a Letters Patent Appeal being L.P.A. No.65 of 2007 before the High Court which was also dismissed. Hence, the special leave petition.

Leave granted.

The examination with which we are concerned is the examination for the post of Sub-Inspectors in the Haryana Police. It is not necessary to go into the entire history of the matter.

Suffice it to say that the appellants are probationers who were successfully recruited and appointed as Sub- Inspectors of Police. After appointment they were required to undergo a training during probation. After undergoing the training, they were required to qualify examination at the end of the training course. In the first examination conducted in July, 2004, out of 83 candidates, only 10 candidates had cleared the examination and remaining 73 had failed. However, the Board in exercise of powers under Rule 3.8 of the Police Training College Manual (for short, the 'Manual'), granted 30 grace marks as such 20 more candidates became qualified. As such in the first attempt

out of 83, 30 candidates were declared to be duly qualified.

In the second attempt held in the month of September, 2004, out of 53, 46 candidates were declared as passed. Out of remaining 7, the Board in exercise of powers under Rule 3.8 of the Manual decided to give grace marks to 4 candidates. One candidate was awarded $\frac{1}{2}$ grace marks, second $1\frac{1}{2}$ grace marks, third $3\frac{1}{2}$ grace marks and fourth $5\frac{1}{2}$ grace marks. The appellants are two candidates who were granted $3\frac{1}{2}$ and $5\frac{1}{2}$ grace marks respectively.

After the award of the grace marks, the Board forwarded the results to the Director General of Police for publication of the results in accordance with Rule 3.9 of the Manual. Under the police training manual, after the Board has awarded grace marks, the entire result is required to be forwarded by the Board to the Inspector General of Police Punjab (presently the Director General of Police, Haryana) for the purpose of publication. This purpose is significant since the said manual does not contemplate that the results are forwarded for any purpose other than publication, such as review or approval.

The Director General of Police, Haryana, approved the the grace marks of $\frac{1}{2}$ and $1\frac{1}{2}$ awarded to two other candidates but disapproved the grace marks of $3\frac{1}{2}$ and $5\frac{1}{2}$ awarded to the appellants. This is the only bone of contention.

Mr. P.S. Patwalia, learned Senior Counsel appearing for the appellants, submits that there is no discernible reason why the Director General of Police, Haryana, has chosen to disapprove the grace marks awarded to the appellants by the Board. According to him, the Board is the sole authority in the matter of such examinations and it is the Board alone which has the power to award the grace marks. The marks awarded by the Board in the examinations or for that matter grace marks, are not subject to review by any authority under the Rules.

According to Mr. Arun Bhardwaj, learned Additional Advocate General appearing for the respondent – State, Clause 5.8 of the Standing Order on the functioning of the Haryana Police Academy, Madhuban, provides that the final result of the examinations shall be published after obtaining the approval of the DGP on the Board Proceedings. The DGP may disagree with the Board and disapprove the recommendations of the Board after giving cogent reasons.

It is obvious that these Standing Orders were framed sometime in the year 2006 whereas the present issue arose in the year 2004. Hence, the Standing Order has no application to the present case.

The main contention of Mr. Patwalia, learned Senior Counsel for the appellants, is that the Director General of Police has no power to interfere with the marks awarded by the Board.

However, Mr. Bhardwaj, learned Additional Advocate General for the respondent, has relied on Rule 1.2 of the Punjab Police Rules 1934 which states as follows :

“...the responsibility for the command of Police Force, its recruitment, discipline, internal economy and administration through out the General Police Districts vests in the Inspector General of Police (now Director General of Police).

According to Mr. Bhardwaj, learned Additional Advocate General, if Rule 1.2 of the Punjab Police Rules empowers the DGP to have overall control of recruitment then it must be held, that the DGP had the power in the present case to interfere with the award of grace marks.

We do not consider it appropriate or necessary to decide whether the DGP has such a power in the present case. It is sufficient for the purpose of this case to consider whether the power exercised by the DGP has been exercised reasonably and fairly.

It cannot be disputed that the administrative power exercised by the DGP is subject to the requirement of fairness, reasonableness and justness.

Considering the impugned decision of the DGP, we find that there is no cogent reason furnished by the DGP for interfering with the grace marks awarded to the appellants by the Board.

According to Mr. Bhardwaj, learned Additional Advocate General appearing for the respondent – State, the DGP has not approved the grace marks because these two candidates are found to have failed earlier.

In our considered opinion, this is hardly a tenable reason for the present case. It is not disputed that there are innumerable cases wherein, grace marks which were awarded by the Board to candidates who had failed twice, have been approved by the DGP. As a matter of fact, in respect of the batch with which we are concerned, the DGP had accepted the recommendations made by the Board in respect of two candidates, out of four which were recommended.

We thus find, that there are no cogent reasons whatsoever offered by the Director General of Police, Haryana, for interfering with and denying the benefits of the grace marks awarded to the appellants by the Board.

In the circumstances of the present case, we allow this appeal, set aside the impugned judgment and order passed by the High Court, and direct that the appellants be treated as having passed the initial training course. Order of discharge dated 15.06.2005 passed by the Director General of Police, Haryana, is hereby set aside.

The appellants are directed to be reinstated forthwith. Though we are not inclined to grant any back-wages to the appellants, they would be entitled for continuity in service for all the purposes including terminal benefits. They would be placed in the seniority list at the bottom of the candidates selected in pursuance of the

advertisement dated 07.03.2003.

Needless to state that the continuity of service granted by us to the appellants would be in accordance with the relevant Rules.

Order accordingly.

.....CJI [S.A. BOBDE]J [B.R. GAVAI]J [SURYA KANT] NEW
DELHI JANUARY 15, 2020.

ITEM NO.8

COURT NO.1

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 18321/2011

(Arising out of the impugned judgment and final order dated
3.2.2011 passed by the High Court of Punjab and Haryana at
Chandigarh in L.P.A. No.65 of 2007)

ANOO P KUMAR & ANR.

Petitioner(s)

VERSUS

STATE OF HARYANA & ORS.

Respondent(s)

Date : 15-01-2020 This petition was called on for hearing today. CORAM :

HON'BLE THE CHIEF JUSTICE HON'BLE MR. JUSTICE B.R. GAVAI HON'BLE
MR. JUSTICE SURYA KANT For Petitioner(s) Mr. P.S. Patwalia, Sr. Adv.

Mr. Ashok K. Mahajan, AOR Mr. Dhruv Sheoran, Adv.

Ms. Harshika Verma, Adv.

Mr. Akshay Chadha, Adv.

For Respondent(s) Mr. Arun Bhardwaj, AAG Mr. Ashish Pandey, Adv.

Mr./Ms. Gauraan Bhardwaj, Adv.

Mr. Abhishek Sharma, Adv.

Mr. Aman Pandey, Adv.

Mr. Vishwa Pal Singh, AOR UPON hearing the counsel the Court made the following
O R D E R Leave granted.

The appeal is allowed in terms of the signed order. Pending interlocutory applications, if any, stand disposed of. (SANJAY KUMAR-II) (INDU KUMARI POKHRIYAL) COURT MASTER (SH) ASSISTANT REGISTRAR (Signed Order is placed on the file)