

A

KARNAIL SINGH

V.

THE STATE OF PUNJAB AND ANR .

SEPTEMBER 6 , 1994

B

[K. RAMASWAMY AND N. VENKATACHALA , JJ .]

Service Law Head Constables Promotion Reversion Promotion of juniors Legality of .

C

The appellant - head constables underwent intermediate course of training and were put in ' G ' list and promoted as Sub- Inspectors . In 1984 they were selected for training of Upper School Course . However , after completion of training , they were not included in ' E ' list and instead of being promoted they were reverted as Head Constables while their juniors were promoted on ad hoc basis . They filed writ petitions in the High Court

D

which were dismissed .

In appeal to this Court , it was contended on behalf of the State , that the appellants were denied promotion due to bad service record and adverse Confidential Report .

E

Allowing the appeals , this Court

HELD : 1. When the appellants have been standing in the same position as two other Head Constables and were senior to them necessarily they should also get the same treatment , but that was not meted out . Even assuming that they had adverse remarks , admittedly no enquiry was made , no findings were given after conducting an enquiry and after giving an opportunity to the appellants . Therefore , their reversion as Head - Constables is clearly illegal . Though they have been promoted subsequently they must be deemed to have been promoted on par with juniors with all the consequential benefits . [197 - G - H ; 198 - A]

G

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos . 297-98 of 1987 .

From the Judgment and Order dated 13.8.86 of the Punjab and Haryana High Court in C.W.P. Nos . 2719 & 2676 of 1986 .

S.K. Bagga , Seeraj Bagga and Tanuj Bagga Advs . for the Appellant A
G.K. Bansal and R.Yadav for the Respondents .

The following Order of the Court delivered by :

Both the appeals are disposed of by a common judgment since same B point is involved for adjudication . These appeals by Special Leave arise from the order of the Division Bench of the High Court of Punjab & Haryana in Civil Writ Petition No. 2636/86 dated August 13 , 1986 and Civil Writ Petition No. 2719/86 of the Judgment . Admittedly the appellants were holding substantive posts as head - constables . They were sent to undergo intermediate course of training in the year 1976 and they were put in the ' G ' List and they were temporary promoted as officiating Sub - Inspectors on May 1 , 1981. Thereafter on April 1 , 1994 they were selected for undergoing training of upper school course at police training college , Phillau in Distt . Jullundur . After completion of the training instead of promoting them as inspectors in the meantime they were reverted as D head - constables . They filed writ petitions as stated earlier and the High Court dismissed the writ petitions .

It is seen from the proceedings Annexure - P at page the writ petitions . !

E

It is seen from the proceedings Annexure - P at page 32 of the Paper Book that the appellants were not promoted as Inspectors . Though the appellants have completed the upper school course ending with the ter August , 1984 they have been ignored and not included on the E List due to their chequered service record . Mota Singh and Karnail Singh though F have been categorised in that category , in paragraph 4 of the same order they have been promoted on ad hoc basis w.e.f. October 4 , 1984. Admittedly Mota singh , head constable No.80 / 119 and Karnail Singh head constable 82/22 are juniors to the appellants in the seniority mentioned in the order . When the appellants have been standing in the same position as Mota Singh and Karnail Singh and seniors to them necessarily they should also get the same treatment . Unfortunately that was meted out : It is sought to be contended on behalf of the State that due to bad record and adverse confidential report , they have not been given the promotion . Even assuming that they had adverse remarks , admittedly no enquiry was made , no findings were given after conducting an enquiry and after giving an oppor- H

A tunity to the appellants . Therefore , the reversion of them as head - con-
stables is clearly illegal . Though they have been promoted subsequently in
1987-88 respectively , they must be deemed to have been promoted on par
with juniors w.e.f. October 8 , 1984. The appellants are accordingly entitled
to the above declaration and the consequential benefits . The appeals are
B allowed and writ issued . No costs .

T.N.A.

Appeal allowed