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**R.N.R.**

*Before Ajay Tewari, J.*

**SATAVTAR SINGH,—Petitioner**

*versus*

**STATE OF PUNJAB & OTHERS,—Respondents**

**CWP No. 4913 of 2010**

14th October, 2010

*Constitution of India, 1950—Art.226—Petitioners working as Sub-Inspectors in Telecommunication Wing/Finger Print Bureau—Claim for promotion to posts of Inspector and DSP—Whether entitled to be considered in General Cadre—Held, yes—State Police—One integral unit and does not consist of separate independent units—Petitions allowed, petitioners held entitled to be considered for promotion to Inspector and DSP in case they attain necessary service seniority.*

*Held*, that the impugned order/s rejecting the representation of the petitioner(s) are set aside and it is declared that the petitioner(s) are entitled to be considered for being brought on to the list 'F' and 'G' in the general promotions in case they attain the necessary service seniority. It is not disputed that persons junior to the petitioner(s) have been considered for this empanelment. The petitioner(s) shall be considered with reference to the date when their immediate junior was so considered.

(Para 8)

Pawan Kumar, Senior Advocate with Pradheep Pawar, Advocate  
*for the petitioner* in CWP No. 4913 of 2004.

K.G. Chaudhary, Advocate, *for the petitioners* in CWP No. 19854  
of 2004.

S. S. Gill, DAG, Punjab.

### AJAY TEWARI, J.

(1) This order shall dispose of these two Civil Writ Petitions bearing Nos. 4913 of 2010 and 19854 of 2004 since similar questions of law and facts arise therein. The facts are being taken from CWP No. 4913 of 2004.

(2) The question is whether persons from the Telecommunication Wing/Finger Print Bureau can be considered for being placed at list 'F' and 'G' (Promotion to Inspector and promotion to DSP). The petitioner was appointed as an Assistant Sub Inspector on 26th June, 1989. He was further promoted as Sub Inspector on 7th July, 2008. His grouse is that he is not being placed at list 'F' which is the general line of promotion at the State level. The stand of the respondents is that Telecommunication Wing/Finger Print Bureau etc. are all separate cadres and thus persons who are recruited to these cadres cannot seek their promotion in the general cadre. Section 2 of the Indian Police Act, 1861 reads as follows :—

“2. **Constitution of the force.**—The entire police establishment under a State Government shall, for the purposes of this Act, be deemed to be one police force and shall be formally enrolled, and shall consist of such number of officers and men, and shall be constituted in such manner, as shall from time to time be ordered by the State Government.”

The Punjab Police Rules were framed under the said Act, Rules 1.1, 1.4 and 1.5 of the said Rules which further explain the constitution of the police force are in the following terms :—

“**Rule 1.1 : Constitution** : For the purpose of section 3 of the Police Act (V of 1861) the Punjab is divided into ‘General Police Districts’, namely :—

- (a) the Provincial Police District.
- (b) the Railway Police District.

All ranks of police employed in the province are appointed or enrolled under Section 2 of the Act.

(For Punjab,—*vide* notification G.S.R. 33 dated 15th June, 1990)

“Provided that each of the Tele Communications Branch, finger Prints Bureau, Women Police Wing, Band Staff, Mounted Police, Armourers and Executive Clerical Wing, that is uniformed clerical functionaries in various subordinates offices shall form its uniformed cadre.

*Explanation.*—The expression ‘subordinate offices’ means the offices of the District, Senior Superintendent of Police, Director, Finger Prints Bureau, Phillaur and Superintendent of Police, In charge Recruits Training Centres.”

**Rule 1.4.—Administrative Division.**—The districts of the province are grouped in Ranges and the administration of all police within each such range is vested in a Deputy Inspector General under the control of the Inspector General of Police.

The training school is under the direct control of the Inspector General subject to such delegation of powers as he may make to one or other of the range Deputy Inspector General. The Criminal Investigation Department is administered by a Deputy Inspector General, who also supervises the Finger Print Bureau.”

**Rule 1.5.—Limits of jurisdiction and liability to transfer.**—All police officers appointed or enrolled in either of the two general police districts constitute one police force and are liable to, and legally empowered for, police duty, anywhere within the province. No sub-division of the force territorially or by classes, such as mounted and foot police, affects this principle.

Every police officer shall be liable to serve at any place, whether within or outside the State of Haryana and in any organisation under the Central Government or being ordered so to do by the appointing authority. Every police officer is empowered under Section 3 of the Police Act, 1888 (Central Act 3 of 1988), when necessary, to exercise the powers, functions and privileges

of a police officer in any part of India. In the exercise of such functions a police officer is deemed to be a member of the police force of the State of Union of India, in which he is at the time.”

**Rule 12.1 deals with the empowerment of authorities to make appointments which reads as follows :—**

**“12.1. Authorities empowered to make appointments.—(1)**

Assistant Superintendent of Police are appointed by the Secretary of State for India, either in England or in India, according to the rules framed by him from time to time.

Deputy Superintendent of Police are appointed by the Provincial Government according to rules contained in Appendix 12.1.

The following table summarises the directions given by the Provincial Government under clause (b) of sub-section (1) of Section 241 of the Government of India Act, 1935, in regard to the authorities competent to make appointments to the non-gazetted ranks.

1	2	3
Class of Government servants	Authority to whom the power of appointment is delegated	The extent of the delegation
Inspectors	Deputy Inspector-General of Police, Assistant Inspector, Government Railway Police, Assistant Inspector-General, Provincial Additional Police (designated as Commandant, Provincial Additional Police), and the Assistant Inspector General of Police (Traffic)	Full powers subject to rules governing the conditions of service as defined in Police Rules.

Sergeants, Sub-Inspectors and Assistant Sub-Inspectors	Superintendents of Police and Deputy Superintendent (Administrative), Government, Railway Police and Assistant Superintendents, Government Railway Police.
Head Constables and Constables	Superintendent of Police and Deputy Superintendent (Administrative), Government, Railway Police, Deputy Superintendent incharge of Railway Police Sub-Divisions, Senior Assistant Superintendent of Police, Lahore and Officers in-charge of Police Constables Training Centers, Deputy Superintendent of Police, Punjab Armed Police Lahaul and Spiti

(3) A perusal of these rules thus indicates that there is no concept of separate cadres as is canvassed by the respondents. The matter fortunately is not *res integra*. In CWP No. 10636 of 1996 decided on 17th July, 1998 a Division Bench of this Court held as follows :—

“The main and substantive issue which calls for adjudication in this petition is whether the petitioners, who were appointed as Assistant Sub-Inspectors of Police in Intelligence Wing of Criminal Investigation Department, Punjab, are entitled to be treated as members of the general police.

xx    xx        xx        xx        xx

xx    xx        xx        xx        xx

On the basis of the above discussion and the judgment of the Supreme Court, we hold that the petitioners belong to the cadre of Provincial Police district and they are entitled to be considered for promotion and they are entitled to be considered for

promotion on the post of Inspector in the General Cadre. This conclusion of ours is amply supported by the statement made by the learned Deputy Advocate General that the petitioners will be considered eligible for appointment as Sub-Inspectors in the General Cadre.”

(4) Thereafter in **State of Haryana and others versus Kashmir Singh and another**, Civil Appeal Nos. 8690—8701 of 2010 decided on 6th October, 2010 the Hon’ble Supreme Court held as follows :—

“10. Thus a perusal of the relevant provisions of the Police Act clearly shows that the state police is one integral unit and does not consist of separate independent units. The overall administrative control of the police in the State is with the Inspector-General of Police (now the Director General of Police).”

(5) In the circumstances the stand of the State is clearly indefensible.

(6) It may also be mentioned that as an alternative learned counsel for the petitioners had also challenged the vires of Rule 1.1 to counter the possibility that it may prescribe separate cadres. However, as per my considered opinion Rule 1.1 nowhere envisages separate cadres. In fact, the word used is ‘shall form its unformed cadre’.

(7) In this view of the matter there is no occasion to test the vires of the aforesaid Rule 1.1.

(8) Consequently these writ petitions are allowed. The impugned order/s rejecting the representation of the petitioner/s are set aside and it is declared that the petitioner/s are entitled to be considered for being brought on to the list ‘F’ and ‘G’ in the general promotions in case they attain the necessary service seniority. It is not disputed that persons junior to the petitioner/s have been considered for this empanelment. The petitioners shall be considered with reference to the date when their immediate junior was so considered and the necessary exercise in this regard shall be conducted within a period of three months from the date of receipt of a certified copy of this order. In case the petitioner/s are found fit for promotion, all the necessary benefits will naturally follow.