



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.14200-1997(O&M)
Date of Decision: 25.08.2025**

Kesar Singh and others

....Petitioners

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Manu K.Bhandari, Advocate and
Mr. Arjun Sawhni, Advocate
for the petitioners

Mr. Aman Dhir, DAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The instant petition was filed by ten persons. Mr. Manu K.Bhandari, Advocate for the petitioners, at the outset, submits that petitioner No.1-Kesar Singh, petitioner No. 6-Jasvir Singh and petitioner No. 10- Ram Sarup are contesting the matter.
2. The petitioners through instant petition under Articles 226 & 227 of the Constitution of India are seeking setting aside of order dated 11.09.1997 whereby they were ordered to be reverted to the post of Constable.
3. The petitioners joined Punjab Police as Constables. On account of exemplary work during terrorism, they were brought on List C-II. They were further promoted as Head Constable on the basis of their name in List



C-II. On account of judgment dated 21.04.1998 of this Court passed in *CWP No. 13788 of 1997*, titled as “*Swaran Singh vs. State of Punjab and others*”, they came to be reverted to their original substantive rank i.e. Constable by impugned order dated 11.09.1997. They are challenging order of their reversion through instant petition. Notice of motion was issued, however, there was no stay in their favour, thus, they were actually reverted. Jasvir Singh was subsequently promoted as Head Constable on 31.07.2015 and retired as Assistant Sub Inspector (Local Rank) on 31.10.2023. Ram Sarup was promoted as Head Constable on 25.06.2019 and he retired as Assistant Sub Inspector (Local Rank) on 31.07.2024. Kesar Singh was removed from C-II List and brought to C-I. He was promoted as Head Constable as per seniority in List C-I.

4. Mr. Manu K. Bhandari, Advocate submits that during the pendency of instant petition, the respondent promoted many C-II List candidates as Head Constables in exercise of power conferred by Rule 13.21 of the Punjab Police Rules, 1934 (for short “1934 Rules”). The respondent vide impugned order dated 23.12.2016 has decided to protect promotion of 393 employees who were promoted out of turn. The respondent on the one hand reverted the petitioners on the ground that they were promoted in excess of 10% quota and on the other has protected 393 employees who were also promoted in excess of 10% quota and 2-3 of them were reverted along with petitioners. The discrimination is writ large. If the rank of 393 employees can be protected, there is no reason to discriminate petitioners. The respondent has also protected rank of 207 Sports persons working with District Police and 295 employees working with Punjab Armed Police. In



this way, the respondent as per its choice has protected rank of Sportspersons by creating Dying Cadre and further protected rank of 393 employees. The State has created Dying Cadre with respect to 393 persons. There was no reason to deny protection to petitioners. There is one Constable namely Sukhwinder Singh who was reverted to the post of Constable alongwith petitioners. His rank is protected by order dated 23.12.2016.

5. Per contra, Mr. Aman Dhir, DAG, Punjab submits that petitioners at the first instance were claiming parity with Sportspersons whose rank was protected by way of creating Dying Cadre. The decision of State Government to create Dying Cadre has not been set aside by any Court. The State Government has decided to protect rank of 393 employees, however, till date said order has not been implemented and matter is pending before Home Department. He further submits that out of 393 employees whose rank is going to be protected by order dated 23.12.2016 are those officials who were promoted out of turn, however, in exercise of power conferred by Rule 13.21 of PPR. They were also in excess of 10% quota, thus, were liable to be reverted. They were never actually reverted and State Government by Memo Dated 23.12.2016 decided to protect their rank. The matter is still pending, thus, petitioners cannot rely upon said order. Sukhwinder Singh was injured while fighting with terrorists and as per Policy with respect to officials fighting with terrorists, he was granted out of turn promotion. He relies upon judgment dated 23.09.2024 of Division Bench of this Court passed in *LPA No. 1323 of 2018 and connected case*, titled as "*Kuldeep Chand vs. State of Punjab and others*".



6. I have heard learned counsel for the parties and perused the record with their able assistance.

7. The petitioners were enrolled as Constables and further promoted as Head Constables on the basis of their exemplary work during terrorism. As per 1934 Rules, there is a list/register known as 'C' wherein names of Constables who are eligible for promotion to the post of Head Constable are recorded. In the said list, the respondent-State has power to enter name(s) of Constable(s) who have not complied with requisite conditions. They are known as 'exemptee'. Their names are recorded in the list known as 'C-II'. Rule 13.8 of PPR deals with promotion to the rank of head constable. Rule 13.8 reads as:

"13.8. List C. Promotion to Head Constables.

(1) In each district a list shall be maintained in card index form (form 13.8(1) of all constables who have passed the Lower School Course at Phillaur and are considered eligible for promotion to Head Constable. A card shall be prepared for each constable admitted to the list and shall contain his making under sub-rule 13.5 (2) and notes by the Superintendent himself, or furnished by Gazetted Officers under whom the Constable has worked, on his qualifications and character. The list shall be kept confidentially by the Superintendent and shall be scrutinized and approved by the Deputy Inspector-General of Police at his annual inspection.

(2) Promotion to Head Constable shall be made in accordance with the principle described in sub-rules 13.1 (1) and (2). The date of admission to list C shall not be material, but the order of merit in which examinations have been passed shall be taken into consideration in



comprising qualifications. In cases where other qualifications are equal, seniority in the police force shall be the deciding factor. Selection grade constables who have not passed the Lower School Course at the Police Training School but are otherwise considered suitable may, with the approval the Deputy Inspector-General, be promoted to Head Constable upto of maximum of ten percent of vacancies."

From the above Rule, it is evident that with the approval of the Deputy Inspector General of Police, 10% of the posts in a Cadre of Head Constable can be filled from amongst Constables who might have excelled in various fields. Such Constables, who are promoted under Rule 13.8(2) are first brought on List C-II and they are exempted from passing the Lower School Course. Those Constables who pass the Lower School Course are brought on list C-I for purpose of promotion as Head Constables. In other words, if the Cadre strength of Head Constables is 100, 90 Constables can be promoted as Head Constable from List C-I and 10 from List C-II.

8. The respondent granted exemption to Constables beyond 10% quota which was contrary to 1934 Rules. A few Constables challenged exemption granted beyond 10% quota before this Court. A Division Bench of this Court in **Swaran Singh v. State of Punjab and others, CWP-13788-1997** vide judgment dated 21.04.1998 declared promotions in excess of 10% out-of-turn quota as illegal. The relevant extracts of the judgment dated 21.04.1998 are reproduced as below:-

“(i) Constables on List C-II up to 10% (and no more) of the cadre strength of Head Constables can be promoted at any given time.



(ii) That the Constables on List C-II to the aforesaid extent have to be promoted strictly in accordance with the dates they are brought on List C-II.

(iii) There would be no bar for a person on list C-II who happens to be a sportsman to be brought on List C-II, of course, subject to the approval of the DIG but his date on list C-II will be the date on which he is brought on the said list and may be promoted as a Head Constable in accordance with the date he is brought on List C-II.

(iv) There is no special quota of 5% for sportsmen in List CII. Rule 13.8(2) envisages filling of 10% posts of the Cadre of Head Constables from amongst Constables who might excel in various fields which would include sports.

While carrying out the aforesaid directions, persons may be reverted, if necessary, from the post of Head Constables to Constable strictly in order of their having been brought on List C-II but such Head Constables from List C-II would be no more than 10% of the total cadre strength of the Head Constables. Those Head Constables who are within 10% quota from list C-II and have further been promoted to a higher rank on officiating or ad hoc basis would hold lien on the substantive post of Head Constable. Such posts may be temporarily filled by promoting Constables from List C-II strictly in accordance with the dates of their being brought on List C-II but if any of the Head Constables who is holding higher posts on officiating basis is reverted to the post of Head Constable who had been promoted from list C-II, then such an incumbent is to make room for such a revertee in accordance with his seniority.



Coming to the point raised by the learned counsel for the petitioner that some of the petitioners have been promoted as ad hoc ASI and even SI (ORP), they could not be reverted to the rank of Constables as they did not remain as Head Constable after having been promoted as ASI. We may observe that persons who is working as adhoc ASI, has no right to cling to the post, being ad hoc. In other words, he can be reverted as a Head Constable. However, the next question which would arise is whether the petitioners are within the limits of percentage of Head Constables who can be promoted on the basis of their being on list C-II? The answer is that if they are within the 10% of the Cadre strength of the Head Constables, they would not be reverted to the rank of Constables but if they are beyond 10% then the persons who are the junior most on the basis of the date of being brought on list C-II would have to make room while retaining 10% of such candidates on list C-II as Head Constables. The official respondents shall after taking into consideration the aforesaid observations, carry out an exercise as to whether any person-cannot be retained as a Head Constable who might have been promoted from list CII.”

9. The Director General of Police, Punjab vide memo dated 31.08.1998 circulated the aforesaid judgment. Pursuant to aforesaid judgment, the respondent reverted non-sportspersons who were promoted in excess of 10% out-of-turn quota in Punjab Armed Police as well as District Police Cadre. The respondent further reverted sportspersons of Punjab Armed Police, however, they were subsequently rehabilitated and their promotions were protected.



The respondent did not revert sportspersons of District Police Cadre though they were promoted in excess of 10% out-of-turn quota. The Council of Ministers, with intent to protect interest of sportspersons, in its meeting held on 23.02.2010 authorized Chief Minister to create requisite number of posts in the Police Department. The State Government vide order dated 18.05.2011 created 207 posts in the District Cadre. The post-wise detail is as below:-

Sr.No.	Name of Post	No. of Posts
1.	Deputy Superintendent of Police	8
2.	Inspector	15
3,	Sub-Inspector	54
4.	Assistant Sub-Inspector	65
5.	Head Constable	65

10. Concededly, the respondent had promoted Constables more than 10% quota, thus, respondent was bound to revert police officers who had got promotion in excess of 10% quota. The respondent ignoring 1934 Rules as well as judgment of this Court instead of reverting officers who had been promoted in excess of 10% quota granted further promotions e.g. an officer who was holding rank of Head Constable in excess of 10% quota was required to be reverted to the rank of Constable whereas respondent further promoted him to the rank of Assistant Sub-Inspector. This process continued till 2011 and on 18.05.2011, the State Government accorded sanction to 207 additional posts for sportspersons who were promoted in excess of 10% quota. Order dated 18.05.2011 protected position and rank of sportspersons. They were protected on the rank they were holding. The order dated



18.05.2011 created a dying cadre which moved parallel to existing cadre like another bank of the river.

11. The petitioners were reverted being in excess of 10% quota. They were not promoted on the basis of achievement in sports. They have neither challenged afore-stated dying cadre nor cadre to be created for 393 constables. They were initially claiming parity with 207 officers of dying cadre and now are claiming parity with 393 constables. The respondent has vehemently pleaded that till date no cadre for 393 constables to protect their out of turn promotion has been created. Matter is pending before Home Department. As no cadre for 393 constables to protect their higher rank has been created, reliance upon said cadre is misconceived. The petitioners are claiming parity with those officials whose higher rank is still not protected. It is further important to note that they were promoted in exercise of power conferred by Rule 13.21.

The respondent has conceded that out of turn promotion ought not to be beyond 10%. The respondent has pointed out that there were more than 3000 constables who were brought on List C-II on the basis of their performance other than in sports. Such a large number of constables could not be promoted out of turn. No separate cadre could be created for them. This court has no power to direct to respondent either to create or abolish any cadre. This is prerogative of the State. Court can intervene if there is violation of the scheme envisaged by our Constitution. The petitioners were reverted in view of Division Bench judgment of this court in **Swaran Singh (supra)**. Any order of this Court directing the respondent to protect rank of the petitioners would be in direct conflict with Division Bench judgment.



There is no violation of fundamental or vested right of the petitioners. Their claim on the ground of equality is misconceived.

12. In the wake of above discussion and findings, this Court is of the considered opinion that instant petition deserves to be dismissed and accordingly hereby dismissed.

13. Pending Misc. application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

25.08.2025
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	