

MOHINDER SINGH AND ANR.
v.
STATE OF HARYANA AND ORS.

SEPTEMBER 3, 1991

[B.C. RAY AND MS. M. FATHIMA BEEVI, JJ.]

Constitution of India: Articles 136, 226—Writ petition dismissed by a non-speaking order—Whether reasons to be given.

Service Law: Haryana Police—Inspectors—Out of turn promotion as Deputy Superintendents—Promotion order not mentioning reasons for—Validity of.

Respondents no. 3 and 4, who were junior to the appellants as Inspectors of Police in the State of Haryana, were given out of turn promotions as Deputy Superintendents of Police earlier than the appellants. The Appellants challenged the said promotion order in a writ petition which was dismissed by the High Court by a non-speaking order. Aggrieved, the appellants filed the appeal by special leave to this Court.

Disposing of the appeal, this Court,

HELD: 1. The order dismissing the writ petition must be a speaking one in order to enable the person affected to know what were the reasons which weighed with the High Court in dismissing it. The High Court should not pass a laconic order. [860G]

2. In the instant case, in the order of promotion there was not a single whisper why the said out of turn promotion was given. [860E]

3. The order of the High Court is fit to be set aside, and the case be sent back on remand to the High Court to hear the writ petition after giving an opportunity to the parties and recording a reasoned speaking order on merits. [861A]

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3471 of 1991.

From the Judgment and Order dated 14.9.1990 Punjab and Haryana High Court in C.W.P. No. 12328 of 1990.

A G.K. Bansal for the Appellants.

K.C. Bajaj, Ms. Kusum Chaudhary and Y.K. Jain for the Respondent.

The following Order of the Court was delivered:

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Special leave granted.

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We have heard learned counsel for both the parties and also considered the order passed by the High Court. Admittedly, these two appellants were appointed much earlier to the appointment of respondent Nos. 3 and 4 in the post of Assistant Sub-Inspector of Police. Their appointment being on 30.3.71 and 24.4.71 whereas the appointment of respondent Nos. 3 and 4 were on 18.2.83. They were promoted in 1983 as Assistant Sub-Inspectors of Police. On 1.1.89 respondent Nos. 3 and 4 and appellant Nos. 1 and 2 were promoted as Inspectors of Police and a composite Seniority List of appellants, respondent Nos. 3 and 4 and other similarly appointed persons was issued by respondent No. 1 in which appellant No. 1 was shown at serial No. 33, appellant No. 2 at serial No. 34 and the respondent Nos. 3 and 4 were at serial numbers 46 and 47 respectively. On 16.10.89 by order of respondent Nos. 1 and 2, State of Haryana and Director General of Police respondent No. 3 was promoted out of turn as Deputy Superintendent of Police. On 23.10.89 respondent No. 4 was promoted as Deputy Superintendent of Police, out of turn. It is rather curious that not a single whisper was there in the order of promotion why the said, out of turn, promotion was given. It was tried to be contended by learned counsels on behalf of respondent Nos. 3 and 4 that because of their gallantry this out of turn promotion was given. However, there is no whisper about this in the letters giving promotion. The appellants, on the other hand, were promoted as Deputy Superintendents of Police as on 11.1.90. While filing the Writ Petition before the High Court, the appellants stated that they came to know of this out of turn promotion sometime on 3.8.90.

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We have considered the order of the High Court. It is really a matter of great regret that inspite of several pronouncements of this Court that the order dismissing the writ petition must be a speaking order in order to enable the persons affected to know what were the reasons which weighed with the High Court in dismissing the writ petition. This Court has observed several times that the High Court should not pass laconic order. In that view of the matter, we think it

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just, proper and fair to set aside the order of the High Court and send the case back on remand to the High Court to hear out the writ petition after giving opportunity to parties and recording a reasoned speaking order on merits.

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The appeal is accordingly disposed of.

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R.P.

Appeal disposed of.