

LUXMI DEVI
v.
THE STATE OF HARYANA AND ORS.

MARCH 31, 1997

[K. RAMASWAMY AND D.P. WADHAWA, JJ.]

Service Law—Seniority—Appellant and respondent no. 6 appointed as Constables—Promotion upto the rank of Sub-Inspector—Appellant promoted as Sub-Inspector earlier than 6th respondent—As Assistant Sub-Inspector while 6th respondent was confirmed but appellant not confirmed for no reason—On a request made by 6th respondent She was transferred to Rohtak range while appellant remained in Hissar range—After deputation period was over appellant appointed as S.H.O. in Rohtak Range where 6th respondent was also continuing—In these circumstances respondent-State directed to continue to maintain the seniority of the appellant over 6th respondent.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2678 of 1997.

From the Judgment and Order dated 31.5.96 of the Punjab & Haryana High Court in C.W.P. No. 19006 of 1995.

Mahabir Singh for the Appellant.

S.S. Khanduja, Y.P. Dhingra and B.K. Satija for the Respondent.

Jasbir Malik and Prem Malhotra for the Respondent Nos.1-6.

The following Order of the Court was delivered :

Leave granted.

We have heard learned counsel on both sides.

This appeal by special leave arises from the judgment of the Division Bench of the High Court of Punjab & Haryana, made on 31.5.1996 in CWP No. 19006/95.

The admitted position is that the appellant was appointed as a Constable initially on 19.11.1981 in Hissar range. She secured rank No.2

- A out of 218 candidates as an all rounder, while Asha Rani, respondent No.6, had secured rank No. 85 in the same range. When 'C' list was prepared in September 1985, both of them were promoted as Head Constables on October 3, 1985 and the confirmation also came to be made on January 31, 1988. In an Intermediate School Course conducted by the authorities,
- B the appellant was deputed in September 1989 while 6th respondent was deputed in March 1990. The appellant was brought in 'D' List on November 4, 1989 while 6th respondent was brought in 'D' List on April 4, 1990. The appellant was promoted as Assistant Sub-Inspector on November 16, 1989 while 6th respondent was confirmed as ASI on July 31, 1992 but was not confirmed for no reason whatsoever. But when she was in Upper
- C School Course in April 1991, she became all rounder No. 1 while 6th respondent was sent for the said course and training in April 1993. The appellant was promoted as Sub-Inspector on May 29, 1991 from P.T.C. while 6th respondent was promoted on August 5, 1992. Thus it could be seen that the appellant has been stealing a march over respondent No. 6
- D right from March 1989 and she distinguished herself in the posts held in several places much earlier to respondent No. 6.

- It would appear that on a request made by 6th respondent, she was transferred to Rohtak range while the appellant remained in Hissar Range and was deputed, being a competent officer, to train the trainees in the
- E Training School. When deputation period was over, she was sought to be reverted to the rank of Assistant Sub-Inspector. The action was obviously illegal and arbitrary. It would, now, appear that after deputation period was over, she was transferred to Rohtak Range and appointed as S.H.O. in Police Station, Sonipat, Sixth respondent also has been continuing in
- F Rohtak Range. Thus, belatedly, the mischief is averted and her position is restored.

- Under these circumstances, the respondent-State is directed to continue to maintain the seniority of the appellant over the 6th respondent in the respective posts though initially they were temporary, since she had
- G given better performance as all rounder.

The appeal is accordingly allowed. No costs.

T.N.A.

Appeal allowed.