

(16) Our conclusion, therefore, is that the mere breach of oath administered to the Chief Minister does not render him disqualified to continue to hold that office which is held by him at the pleasure of the Government. A writ in the nature of *quo warranto* cannot issue for the breach of such oath and this Court has no jurisdiction under Article 226 of the Constitution to issue any direction for the removal of the Chief Minister on that account. In this view of the matter this writ petition has to be dismissed.

(17) Before parting with this case, we may make it clear that we have proceeded on the assumption that respondent No. 1, that is, the Chief Minister of the State of Haryana, is guilty of committing breach of oath. We make it clear that the Chief Minister has only challenged the jurisdiction of the Court to issue a writ as prayed for. Right has been reserved to contest the allegations levelled against respondent No. 1 on merits if and when any such occasion may arise. It should not, therefore, be taken that adverse allegations in the writ petition were admitted by the respondent.

(18) The learned Advocate-General, Haryana, appearing for the respondents pointedly pressed for imposing heavy costs upon the petitioner in case of dismissal of this petition so as to deter levelling of such allegations in Court. Since, in our opinion, in the view we have taken, it is not necessary for this Court to go into the truth or otherwise of the allegations made, it will be premature for us to say that those allegations have been made only for certain personal political gains or any oblique motive. We, therefore, leave the parties to bear their own costs of this writ petition.

(19) The writ petition is dismissed, but without any order as to costs.

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**J.S.T.**

(FULL BENCH)

*Before* : S. S. Sodhi, A.C.J., R. S. Mongia and Ashok Bhan, JJ.

SUB INSPECTOR RAM PHOOL AND OTHERS,—*Petitioners.*

*versus*

STATE OF HARYANA AND OTHERS,—*Respondents.*

*Letters Patent Appeal No. 792 of 1992.*

7th September, 1992.

*Punjab Police Rules, 1934 Vol. II—Rls. 19 & 19.22—Head Constables deputed to Intermediate School Course—Deputation to course not in accordance with seniority—Such deputation in direct violation*

*of law laid down in Sardul Singh's case and instructions issued by Director General of Police—Police Officers disregarding rule of law laid down liable for action under Contempt of Courts Act—Head Constables sent to course otherwise than in accordance with seniority—Liable to be sent back at any stage—Also no seat to be allotted for Intermediate Course to persons doing various jobs at P.T.C. except as per their seniority.*

*Held, that faced with this situation, we are constrained to observe that hence forth Police Officers who depute Head Constables for the Intermediate School Course in disregard of the rule laid down by the Full Bench in Sardul Singh's case, shall do so at their peril, as they would thereby render themselves liable for action under the Contempt of Courts Act. We also hereby direct that those Head Constables who may be sent for the Intermediate School Course, otherwise than in accordance with their seniority, shall be liable to be sent back from the course on this ground alone, regardless of the stage of the course at the time when this is detected.*

(Paras 7 & 8)

*Held, that there is no power under Rule 19.22 of the Punjab Police Rules, Vol. II for deputing persons for the Intermediate School Course who are doing various jobs at the Police Training School. The Rule does not envisage allotting any seats for persons doing jobs at the Police Training School, for the purpose of deputing them for the Intermediate School Course. We consequently hold that the persons doing jobs at the Police Training School cannot be deputed for the Intermediate School Course except as per their seniority. In other words, they too are to be deputed strictly in accordance with their seniority.*

(Para 11)

*Letters Patent Appeal Under Clause 10 of the Letters Patent Act, praying that the appeal be allowed and the impugned order be set aside.*

*It is further prayed that the Respondents be directed to depute the petitioners for Courses if started pending final disposal of the appeal.*

*Vinod Sharma, Advocate and S. M. Sharma, Advocate, for the Petitioner.*

*R. C. Setia, Additional A.G. Haryana, for the Respondent.*

#### JUDGMENT

*S. S. Sodhi, A.C.J.*

(1) The matter here concerns, the order in which Head Constables are to be deputed to the Intermediate School Course at the Police Training College, Madhuban.

(2) It was over twenty years ago, that a Full Bench of this Court in *Sardul Singh v. Inspector General of Police*, AIR 1970 Punjab and Haryana 481, laid down that Head Constables had to be deputed to the Intermediate School Course in the order of their seniority. It being observed in this behalf, that it was inherent in Rule 13.9 of the Punjab Police Rules, 1934, that every Head Constable on list 'C' has the right to be deputed for this course in his turn and no obstacle could be placed in his way, as the passing of this Course was a necessary qualification prescribed in the rules to render him eligible for further promotion to the post of Assistant Sub Inspector of Police. This was particularly so, it was said, as there was no other institution from which this qualification could be acquired.

(3) The view in *Sardul Singh's* case (supra) was reiterated by the Division Bench in *State of Haryana v. Phool Chand* (1), where again it was held that every Head Constable was entitled to be deputed to this course strictly in accordance with his seniority. The Bench further added that there was no element of selection at that stage.

(4) Before proceeding further, it would be pertinent to note here the instructions issued, in this behalf, by the Director General of Police, Haryana, on December 7, 1987. They read :—

“According to the decision of the Punjab and Haryana High Court in *Sardul Singh's* case Head Constables have to be deputed to the Police Training School for Intermediate School Course in accordance with their seniority. But instances have come to notice that some Head Constables passed their Intermediate School Course while serving on deputation with the Police Training College Madhuban against the seats allotted to the P.T.C. for the said course irrespective of their seniority in their parent district/unit. The matter has been examined and it has been decided that a Head Constable on deputation maintains his seniority in his parent department only and in no way his position improves when he is on deputation. He will get the benefit of passing the Intermediate School Course according to his seniority alone. A Head Constable on deputation, if he happens to pass Intermediate School Course in any manner except seniority, shall not be considered as meritorious or superior to his seniors for reasons of his having passed the school course by a method other than seniority nor such training shall vest any right in that Head Constable to claim any promotional

benefit prior to his seniors who are HCs and were not deputed for Intermediate School Course. The act of sending a deputationist for training is firstly contrary to the Rule laid down by the High Court, therefore, no authority is expected to violate the same. If, however, any person gets training through such occasion then the promoting authority has still the power to ignore him for the purpose of promotion as against his seniors who had not done the course. These instructions may, therefore, be kept in view for strict compliance in future while admitting the names of Intermediate School Course passed Head Constables in list 'D'."

It is, indeed, unfortunate that despite the clear enunciation of the settled position in law, as set forth in *Sardul Singh's* and *Phool Chand's* cases (supra) as also the specific instructions issued by the Director General of Police, in this behalf, instances of Head Constables being deputed to the Intermediate School Course, otherwise than according to their seniority, continue to come to light. Recently, a Division Bench of this Court had occasion to direct the senior petitioning Head Constables to be sent to the Intermediate School Course, when they approached this Court *Head Constable Satya Dev Singh v. State of Haryana and others* (2), complaining that their juniors had instead been sent to the course.

(5) A few months later, another instance of juniors being sent to the Intermediate School Course was noticed in *Surinder Singh Head Constable v. The State of Haryana* (3). There too, the juniors had been sent to the course while the seniors were left out. As the course had, in the meanwhile, been completed, the petitioners were directed to be considered as per their seniority, for the next Course.

(6) In the present case too, the complaint is of juniors having been sent to the course in preference to the appellants who claim to be their seniors. It has, however, come on record that there were at least 300 other Head Constables senior to the appellants who had not so far been sent to the course. It was on this account that the learned single Judge declined to direct the appellants to be sent to the course. While, no exception can, indeed, be taken to this view of the learned single Judge, this case does, however, bring out another glaring instance of the settled position in law being disregarded by the authorities concerned, while deputing Head Constables for the Intermediate School Course.

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(2) C.W.P. No. 10334 of 1991 decided on 31st July, 1991.

(3) C.W.P. 15908 of 1991 decided on 2nd December, 1991

(7) Faced with this situation, we are constrained to observe that hence forth Police Officers who depute Head Constables for the Intermediate School Course in disregard of the rule laid down by the Full Bench in *Sardul Singh's* case (supra), shall do so at their peril, as they would thereby render themselves liable for action under the Contempt of Courts Act.

(8) We also hereby direct that those Head Constables who may be sent for the Intermediate School Course, otherwise than in accordance with their seniority, shall be liable to be sent back from the course on this ground alone, regardless of the stage of the course at the time when this is detected.

(9) We, however, make it clear that the above-mentioned directions would be subject to any valid and legal reservation that may have been made or may be made for a particular class(s) of candidates for being deputed for Intermediate School Course.

(10) Before parting with the judgment, it may be noticed that the learned Single Judge in his judgment under appeal has observed, "Even otherwise, persons deputed for various jobs at the Police Training College are allotted a number of seats in accordance with the provisions of Rule 19.22 of the Punjab Police Rules Volume II. They are permitted to undergo training by way of attending the Intermediate School Course etc. as a measure of incentive. In such a situation, I cannot say that the action of the respondents in deputing Samunder Singh for the course was either arbitrary or unfair." Rule 19.22 of the Punjab Police Rules, Volume II, is in the following terms :—

19.22. Drill and Physical training at the Police Training School.

- (1) The Principal, Police Training School, may retain for service at the school any head constable or constable deputed from districts for training rules 19.20. Without the approval of the Inspector General no drill and physical training instructor may be retained for service at the school for more than three years at a time, there being an interval of atleast one year before he is again so employed. The Principal, Police Training School, Phillaur is empowered to enter Police Training School Drill and Physical Training Instructors directly into the lower school course after their three years, period of deputation, provided that they are sufficiently educated and their

service at the Police Training School has been satisfactory.

- (2) All promotions of drill and physical training instructors made at the school shall be temporary and all such men shall revert to their substantive ranks on return to their districts. Drill and Physical Training Instructors returned from the Phillaur Drill Staff should not be employed even temporarily, as Drill and Physical Training Instructors in districts without the sanction of Range Deputy Inspectors General of Police.
- (3) All lower subordinates employed as drill and physical training instructors at the Police Training School shall be shown on the promotion lists A, B or C of their districts as "They shall be considered equally with other men of their districts" for promotion. For this purpose, the Principal, Police Training School, will furnish an annual report in form 19.22(3) on all drill and physical training instructors to the Superintendents of the district concerned. In the case of upper subordinates confirmed as such, these reports shall be submitted to the Deputy Inspector General of the range from which the men were deputed to the Police Training School for inclusion in their personal files.

(11) From the perusal of the above-mentioned Rule we find that there is no power under the Rule for deputing persons for the Intermediate School Course who are doing various jobs at the Police Training School. The Rule does not envisage allotting any seats for persons doing jobs at the Police Training School, for the purpose of deputing them for the Intermediate School Course. The learned counsel for the respondents could not show us any authority under any law under which any seats could be allotted for those persons who are doing various jobs at the Police Training School for being deputed out of turn for the Intermediate School Course, we consequently hold that the persons doing jobs at the Police Training School cannot be deputed for the Intermediate School Course except as per their seniority. In other words, they too are to be deputed strictly in accordance with their seniority.

(12) Such being the circumstances, we direct that a copy of this judgment be sent to the Director General of Police, Haryana, to be circulated by him to all the Police Officers concerned.

(13) As regards the merits of the present appeal there being over 300 persons senior to the appellants, the impugned judgment of the learned single Judge declining relief to them, on this account, warrants no interference in appeal. We, therefore, dismiss this appeal but with the directions and observations set forth. There will be no order as to costs.

*J.S.T.*

*Before : A. L. Bahri & H. S. Bedi, JJ.*

MOHAN LAL,—Appellant.

*versus*

UNION OF INDIA,—Respondent.

*Regular First Appeal No. 469 of 1986*

4th September, 1991.

*Administrative Tribunals Act, 1985—S. 29-A—Scope of—Appeal filed before enforcement of Act—Such appeal—Whether liable to be transferred to the Tribunal.*

Held, that a perusal of S. 29-A of the Administrative Tribunal Act would not cover the case in hand. The suit was dismissed by the trial Court on July 30, 1985 i.e. before establishment of the Tribunal. The time for preferring appeal against the judgment and decree aforesaid had not expired before the establishment of the Tribunal. Application for obtaining certified copies of the judgment and decree was filed on 3rd August, 1985 and the same were ready for delivery on 27th September, 1985. Thus, the appeal filed on December 10, 1985 was well within time. As on November 1, 1985 though limitation had not expired, but appeal could not be filed before the Tribunal as S. 29-A came into force on January 22, 1986, it having been inserted by Act 19 of 1986. By that time, appeal had already been filed in High Court having jurisdiction to entertain it. Such an appeal could not be transferred to the Tribunal under S. 29 of the Act.

(Para 4)

*Regular First Appeal from the order of the Court of Shri Jaaroon Singh, PCS Sub-Judge, 1st Class, Chandigarh, dated 30th July, 1985, dismissing the suit of the plaintiff with costs.*

*Claim :—Suit for recovery a sum of Rs. 25,000 on account of arrears of Salary for the last three years preceding the date of filing of the present civil suit.*

*Claim in Appeal:—For reversal of the order of lower Court.*

Shri A. K. Mital, Advocate and Shri G. S. Sandhawalia, Advocate.  
*for the appellant.*

Shri A. S. Tewatia, Advocate, *for the respondent.*