

**RAJASTHAN CIVIL SERVICES APPELLATE TRIBUNAL,
JAIPUR**

S.N.	Appeal No and Appellants' Name	Respondent's Name	Date of presence	Name of Advocates
1	938/2020 Kamlesh Kumar Bairwa	1. The State of Rajasthan through its Principal Secretary, Department of Home, Government of Rajasthan, Secretariat, Jaipur.	08-09-2020	Dharmendra Jain, Adv., M.M. Meharshi, Adv.
2	939/2020 Naresh Kumar Mahawar		31-08-2020	
3	942/2020 Shyopakash	2. Joint Director General of Police, Police Headquarter Rajasthan, Jaipur. 3. The Inspector General of Police, Bhartpur Range, Bhartpur. 4. The Superintendent of Police, Sawai-madhapur District Sawai-madhapur.	06-08-2020	

Date of Order : 02-11-2021

**Before: Ravishankar Srivastava, Chairman
Matadeen Sharma, Member**

Order:

These three above mentioned appeals are being decided by a common order for the sake of convenience on account of commonality of issues and facts.

For the sake of convenience facts of appeal no 938/2020 are being discussed.

By way of present appeal, the appellant is seeking a direction to the respondent by this Tribunal to consider him for the police cadre course (PCC) of Head Constable for the year 2016-17 with all consequential benefits against the reserved cadre posts for the year 2016-17. He has also prayed that

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declaration of marks of qualifying examination be declared and to set aside the selection process for the qualifying examination of the year 2016-17.

The appellant was initially appointed as constable and posted in Sawaimadhopur. He was eligible for promotion as Head Constable. He has all the requisite qualification as prescribed by Rajasthan Police Subordinate Service Rules of 1989. On 03.02.2017 an advertisement was notified for qualifying examination for the 45 posts of head constables (7 SC and 38 general) for the year 2016-17. This consisted of written test, outdoor and interview as per RPSS Rules 1989.

The applications were to be submitted by 03.02.2017 from all of those who had requisite qualifications as on 01.04.2016. The appellant participated in written examination on 07.03.2017. He was declared successful in the written examination. In all 125 candidates were declared successful in their respective categories. He participated in interview on the basis of minimum 45 % marks in written and 40 % in outdoor test. By the order 24.07.2017, 45 candidates were declared successful for police cadre course (PCC).

Following a Hon'ble High Court order dated 30.05.2017 passed in the D.B. Appeal no. 1004/2015 a review board was constituted for the vacancies of the year 2013-14. As a result 4 candidates who were selected against the vacancies of the year 2016-17, were pushed upward for the year 2013-14. Mr. Dharmendra Kumar and Data Ram who were in the select list of 2016-17, went upward.

In a similar fashion following the impugned order of the Hon'ble High Court a review board was constituted for the vacancies of 2014-15 and again one more person namely Rajesh Khanna who was selected in the select list of

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2016-17 pushed up for the year 2014-15. Mr. Shiv Singh and Madan Lal from the same select list also moved up for the year 2012-13. In all 5 persons from the select list of 2016-17 moved upwards to previous years. It is submitted that all these were from reserved category. Due to vacancies created by these 5 persons' upward movement, 5 vacancies of SC category for the year 2016-17 were to be filled up by the persons who participated in the qualifying examination for the year 2016-17 and passed but did not find place due to being junior in their category.

On 01-07-2021 the vacancies of the year 2016-17 were re-determined and 28 new posts were added. Now 25 more candidates were selected successful against these 28 posts. These candidates were already in the select list of 2016-17 and completed PCC. They deprived chance to fresh SC candidates. It is submitted that the 125 candidates who participated in the eligibility test for 2016-17, their marks were not declared. Seniority rule was violated. The examination was conducted in arbitrary manner and junior persons were promoted. The appellant was declared successful on the basis of interview. The process of selection has been contrary to the Rule 27 and Rule 29. The marks were not allotted as per the direction issued by DGP under rule 29 of Rules of 89. Hence this present appeal.

The respondents have submitted a reply. They have admitted the fact of upward movement of those 5 candidates who were select in the select list of 2016-17. They have also admitted that the review was conducted in the light of Hon'ble High Court order. They however, have submitted that selections have been made on merit.

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The counsel for appellant has submitted that a representation by him was submitted on 03-07-2020 but nothing has happened. He had secured 50% marks but was not declared qualified.

We have heard the counsel for the appellant and the respondent. We have gone through the appeal memo and reply.

In view of the fact that the appellant had submitted a representation on 03.07.2020 and the same is still pending and respondents have not taken a view on that and the admitted fact that there has been upward movement to previous years of 5 candidates who were in the select list of the year 2016-17, that the appellant had passed the written and outdoor tests and had secured minimum qualifying marks but the breakup of marks given in interview to the appellant as per Rule 29 of RPSS Rule 1989 has not been submitted before us , we deem it fit to remand the matter back to the respondents and direct them to pass a speaking order on the representation of the appellant keeping in view the admissions by them , the submissions made by the appellant in this appeal and the representation and the respondents shall pass a speaking order within a period of two months from the date of passing of this order. If still aggrieved the appellant may approach this Tribunal for redressal of his grievances

Copy of this order may be kept in each individual appeal as mentioned in above captioned table.

(Matadeen Sharma)
Member

(Ravishankar Srivastava)
Chairman