



CWP-28155-2025 & connected cases -1-

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

108 (5 cases)

CWP-28155-2025

Date of Decision:15.10.2025

HC Rakesh Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

With

Sr. No.	Case No.	Petitioner(s)	Respondent(s)
2.	CWP-27790-2025	Risha and another	State of Haryana and others
3.	CWP-28229-2025	Vikram and others	State of Haryana and others
4.	CWP-28230-2025	HC Vijay Pal and another	State of Haryana and others
5.	CWP-28610-2025	Rakesh Kumar	State of Haryana and others

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. C.R. Dahiya, Advocate for the petitioner(s)
(in CWP-28155-2025 & CWP-28230-2025)

Mr. Surinder Singh, Advocate for the petitioners
(in CWP-27790-2025)

Mr. Amit Bansal, Advocate for the petitioners
(in CWP-28229-2025)

Mr. Sunil Bhardwaj, Advocate for the petitioner
(in CWP-28610-2025)

Mr. Ashok Kumar Khubbar,
Additional Advocate General, Haryana

JAGMOHAN BANSAL, J. (Oral)

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from *CWP-28155-2025*.



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2. The petitioner through instant petitions under Articles 226/227 of the Constitution of India is seeking direction to the respondents to depute them for Intermediate School Course.

3. The petitioner joined Haryana Police Force as Constable on 02.06.2008. He cleared B-1 Test in the year 2014 in Batch No.61. He was brought on List 'C' w.e.f. 28.01.2017. His name figured at Serial No.36 in the final result of Lower School Course. He was awarded punishment of stoppage of two future annual increments with temporary effect vide order dated 03.02.2017 passed by Deputy Commissioner of Police, Faridabad. He preferred an appeal against order of punishment. His appeal was dismissed vide order dated 18.07.2017 passed by Commissioner of Police, Faridabad. He was promoted as Head Constable w.e.f. 30.06.2019 vide order dated 05.12.2019. The respondent later on approved his promotion w.e.f. 19.03.2019 vide letter dated 12.01.2023. The respondent again vide letter dated 22.08.2023 made his date of promotion as Head Constable w.e.f. 03.09.2019. The respondent collected list of eligible and willing candidates for Intermediate School Course in April' 2023. The petitioner was not deputed for Intermediate School Course though his batchmates were deputed for said course. The respondent in 2025 again compiled list of eligible and willing Head Constables for Intermediate School Course. The respondent vide letter dated 11.09.2025 circulated list of 44 Head Constables for Intermediate School Course, 2025. The petitioner was again not selected for Intermediate School Course.

4. Learned counsel for the petitioners submit that Rule 13.9 of Punjab Police Rules, 1934 (as applicable to State of Haryana) (for short 'PPR') governs promotion from the post of Head Constable to Assistant Sub-Inspector. As per said Rule applicable to State of Punjab, selection for

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admission to the promotion course is made from amongst all confirmed Head Constables. Only Head Constables who have passed Middle Standard Examination and are below the age of 45 years are eligible for Intermediate School Course. In Rule 13.9 applicable to State of Haryana, there is no prescribed eligibility for enlisting a Head Constable for Intermediate School Course. A Full Bench of this Court in ***Head Constable Sardul Singh v. Inspector General of Police, Punjab and others, 1970 SCC OnLine P&H 158*** has clearly held that selection for Intermediate School Course does not form part of the process of promotion from post of Head Constable to Assistant Sub-Inspector. It merely makes a Head Constable eligible for promotion. No Head Constable can be deprived from Intermediate School Course if he is otherwise eligible. A Division Bench of this Court in ***State of Punjab and others v. Kirpal Singh and others, AIR 1970 P&H 395*** set aside instructions issued by Director General of Police, Punjab with respect to Intermediate School Course. The petitioners are not claiming promotion whereas they are claiming enlistment for Intermediate School Course. They would be promoted as per parameters laid down in Rule 13.1 of PPR. Character or integrity can be considered at the stage of promotion.

5. Affidavit dated 14.10.2025 of Mr. O.P. Singh, Director General of Police, Haryana filed in *CWP No.28155 of 2025* is taken on record. Registry is directed to tag the same at an appropriate place.

6. Status report by way of affidavit dated 14.10.2025 of Dr. Arpit Jain, I.P.S. Deputy Commissioner of Police, Headquarters, Gurugram (in *CWP No.27790 of 2025*) on behalf of respondent Nos.1 to 6 is taken on record. Registry is directed to tag the same at an appropriate place.



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7. *Per contra*, learned State counsel submits that Director General of Police, Haryana (for short 'DGP') in exercise of power conferred by Section 50(n) and 50(p) of Haryana Police Act, 2007 (for short '**Police Act**') has power to issue WAN messages. The competent authority has decided not to depute Head Constables for Intermediate School Course who are suffering from currency of punishment. The petitioners herein are facing or had faced punishment of forfeiture of increment, thus, cannot be deputed for Intermediate School Course. Judgment of full bench of this Court in ***Head Constable Sardul Singh (supra)*** is inapplicable in the instant case because petitioners herein have been subjected to punishment.

8. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

9. From the perusal of record, it is evident that Rule 13.9 of PPR, applicable to State of Haryana, provides that a confirmed Head Constable would be eligible for Intermediate School Course provided he has passed Middle Standard Examination and is below the age of 45 years. In Rule 13.9, applicable to State of Haryana, there is no such condition. Rule 13.9 applicable to both the States is reproduced in juxtaposition as below: –

<i>State of Punjab</i>	<i>State of Haryana</i>
<i>(1) List 'D' shall be maintained in two parts for Head Constables in Card Index Form No. 13.9 in each district. Selection for admission to the promotion course for Head Constable at the Police Training College, will be made from amongst all the confirmed Head Constables. No Head</i>	<i>(1) A list shall be maintained in each district in card index Form 13.9(1) of those head constables who have passed the lower school course and the Intermediate school course at the Police Training School and are approved by the Deputy Inspector-General as eligible for officiating or substantive</i>



<p><i>Constable shall be eligible for admission to the promotion course for Head Constable at the Police Training College, unless</i></p> <p><i>(1) He has passed Middle Standard examination.</i></p> <p><i>(2) He is below the age of forty years on the day of commencement of the next course.</i></p> <p><i>(2) The names of the Head Constables who qualify at Police Training College in the Promotion Course for Head Constables will be entered in Part-I of list 'D' as soon as they qualify the same. While entering the names in this part they will maintain their seniority inter se. The names of the outstanding Head Constables who have not passed the Promotion Course of Head Constables at Police Training College due to being over age but otherwise are of exceptional merit and are considered suitable may, with the approval of Inspector General of Police, be entered in Part II of list 'D'. No more than 10 per cent of the posts of Assistant Sub Inspectors both permanent and temporary will be filled from the names of Part II of list 'D'. This part will not at any time contain names</i></p>	<p><i>promotion to the rank of assistant sub-inspector. No head constable shall be admitted to this list who is not thoroughly efficient in all branches of the duties of a constable and head constable and of established integrity.</i></p> <p><i>(2) Officiating promotion to the rank of assistant sub-inspector shall be made from the list prescribed in sub-rule (1), as far as possible in rotation, so as to give each man a trail in the duties of the higher rank. Substantive promotion shall be made by the Deputy Inspector-General in accordance with the principles prescribed in rule 13.1, and officiating promotion shall be made in accordance with sub rule 13.4 (2).</i></p> <p><i>(3) Half-yearly reports in Form 13.9(3) on all head constables in this list shall be furnished on the 15th April and the 15th October, to the Deputy Inspector General.</i></p>
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<p><i>more than two per cent of the cadre strength of Assistant Sub-Inspectors in a range, both temporary and permanent.</i></p> <p><i>(3) Annual Confidential Reports of all the Head Constables in Parts I and II of list 'D' shall be furnished to the Deputy Inspector General of Police by the 15th day of April, each year in Form No. 13.9</i></p> <p><i>(3).</i></p> <p><i>(4) Promotion to the rank of Assistant Sub Inspector shall be made in accordance with the seniority of the Head Constables on list 'D', which may be ignored by the Superintendent of Police in exceptional circumstances only for reasons to be recorded in writing with the approval of the Deputy Inspector General of Police.</i></p>	
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10. A conspectus of afore-stated Rule reveals that in Rule 13.9 of PPR, applicable to State of Haryana, there is no stipulated condition for enlisting a Head Constable for Intermediate School Course. Both sides have not cited any Rule of PPR which governs or prescribes terms and conditions for deputing a Head Constable for Intermediate School Course. Competent authority, if permitted by law, may clarify the position e.g. Section 37B of Central Excise Act, 1944 empowers Central Board of Excise and Customs to issue orders, instructions and directions for the purpose of uniformity in the classification of excisable goods or with respect to levy of excise duty on



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such goods or for the implementation of any other provision of the Act. Similar provisions are existing in Customs Act, 1962 and Central Goods and Services Act, 2017. For the ready reference, Section 37B is reproduced as below: -

“37B. Instructions to Central Excise Officers.- The Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963), may, if it considers it necessary or expedient so to do for the purpose of uniformity in the classification of excisable goods or with respect to levy of duties of excise on such goods or for the implementation of any other provision of this Act, issue such orders, instructions and directions to the Central Excise Officers as it may deem fit, and such officers and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the said Board:

Provided that no such orders, instructions or directions shall be issued--

- (a) so as to require any Central Excise Officer to make a particular assessment or to dispose of a particular case in a particular manner; or*
- (b) so as to interfere with the discretion of the Principal Commissioner of Central Excise or Commissioner of Central Excise (Appeals) in the exercise of his appellate functions.”*

[Emphasis supplied]

11. The State Legislature repealed Police Act, 1861 and introduced Haryana Police Act, 2007 w.e.f. 01.11.2008. Section 50 of Police Act empowers DGP to make regulations or issue orders not inconsistent with the provisions of the Act or Rules made thereunder. Section 50 of 2017 Act reads as: -

“50. Regulations.- The Director General of Police shall be competent to make regulations or issue orders, not



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inconsistent with the provisions of this Act or the rule framed thereunder regarding.-

- (a) prevention and investigation of crime;*
- (b) maintenance of law and order;*
- (c) regulation and inspection of the police organization and of the work performed by the police officers;*
- (d) regulating the issue and use of arms and ammunition;*
- (e) wearing of uniform;*
- (f) prescribed the places of residence of the members of the police service;*
- (g) institution, management and regulation of any Non-Government fund for the purpose connected with the police administration or welfare of police personnel;*
- (h) regulation, deployment, movements and location of the police;*
- (i) assigning duties to officers of all ranks and grades, and prescribing the manner and the conditions subject to which, they shall exercise and perform their respective powers and duties;*
- (j) regulating the collection and communication of intelligence and information by the police;*
- (k) prescribing the records registers and forms to be maintained and the returns to be submitted by different police units and officers;*
- (l) community policing;*
- (m) functioning of police stations and other units;*
- (n) training of the police force and management of training institutions;*
- (o) generally, for the purpose of administering this Act and for rendering the police more efficient, and preventing abuse of power or neglect of duties by them;*



(p) covering any aspect of police administration which is not covered under the provisions of this Act or rules framed thereunder.”

12. From the perusal of above quoted section, it is evident that DGP has power to make regulations or issue orders not inconsistent with the provision of the Act and Rules framed thereunder regarding any aspect of the police administration which is not covered by the Act or Rules made thereunder.

13. Clarifications/circulars/instructions issued by Government are not binding upon Courts which are supposed to interpret and rely upon statutory provisions. A five Judge Bench of the Apex Court in ***CCE v. Ratan Melting & Wire Industries, (2008) 13 SCC 1*** has held that circulars/clarifications issued by Government are not binding upon Court which has to declare what the particular provision of statute says and it is not for the executive. The Court has held:

“7. Circulars and instructions issued by the Board are no doubt binding in law on the authorities under the respective statutes, but when the Supreme Court or the High Court declares the law on the question arising for consideration, it would not be appropriate for the court to direct that the circular should be given effect to and not the view expressed in a decision of this Court or the High Court. So far as the clarifications/circulars issued by the Central Government and of the State Government are concerned they represent merely their understanding of the statutory provisions. They are not binding upon the court. It is for the court to declare what the particular provision of statute says and it is not for the executive. Looked at from another angle, a circular which is contrary to the statutory provisions has really no existence in law.”

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In view of above-cited judgment, inescapable conclusion is that clarifications issued by DGP in the form of instructions are not binding at least upon this Court. Matter needs to be examined in the light of applicable rules.

14. From the perusal of PPR, Police Act and Haryana Police (Non-Gazetted and Other Ranks) Service Rules, 2017, it is evident that petitioners are Members of 'service'. PPR are in the form of complete Code which govern each and every attribute of police officials. There are specific Rules for appointment, promotion, transfer, disciplinary proceedings, superannuation, misconduct, punishment, appeal/revision etc. The appointment and promotion of police officers is governed by PPR. There is specific Rule with respect to promotion from the post of Head Constable to Assistant Sub-Inspector i.e. 13.9 of PPR. Section 92 of Police Act empowers State Government to make Rules for carrying out purposes of the Act. Section 93 empowers State Government to issue notification to remove any difficulty arising in giving effect to provision of the Act. Section 93 of the Police Act reads as: -

“93. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification in the Official Gazette, make such provisions, as it deems necessary or expedient for removing the difficulty.

(2) Every notification issued under this section shall, as soon as may be after it is issued, be laid before the State Legislature.”

15. There is no Rule prescribing terms and conditions for selecting Head Constables for Intermediate School Course. The State Government can make Rules as well as issue notification to clear the clouds, if any. The DGP



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in the form of letters addressed to different officers has clarified that officials/officers facing punishment would not be deputed for Intermediate School Course. The DGP has not issued one letter whereas on different occasions, different letters have been addressed to officers manning the District. Copy of one such WAN message dated 18.05.2018 addressed to Commissioner of Police, Panchkula is reproduced as below: -

CRASH

“WAN MESSAGE

From Police Haryana

To CP/Panchkula

No.7/78/T-2 dated 18.05.2018 () Mease (sic) refer to your office letter No.5064/A-2 dated 28.04.2018 guideline regarding Intermediate School Course(.). It is clarified that official under currency of punishment may not be deputed to Intermediate School Course (.) Whereas, the officials under suspension and having adverse remarks may be deputed to the said course however promotion can only be done in accordance with relevant rules i.e. merely deputing and passing the said course will not create any right of promotion beyond relevant rule(.) Please take further necessary action accordingly (.).

Sd/- (Rakesh Kumar Arya)
DIG/Administration (H)

For Director General of Police, Haryana”

16. From the reading of above WAN message, it is evident that it was issued in the name of DGP whereas it was not issued by DGP. Section 50 empowers DGP to frame regulations or issue orders. The WAN message in question cannot be relied upon and seems to be contrary to law in view of following reasons: -

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- i. The WAN messages have been issued by an officer other than DGP whereas power under Section 50 of Police Act is conferred upon DGP to issue orders.

- ii. Rule 13.9 of PPR as interpreted by Full Bench of this Court in ***Head Constable Sardul Singh (supra)*** requires that a Head Constable may be promoted to the post of Assistant Sub-Inspector if he has passed Lower School Course and Intermediate School Course. Passing of Intermediate School Course is not part of process of promotion because promotion is governed by Rule 13.9 and 13.1 of PPR. The Full Bench has clearly held that every Head Constable on List 'C' has right to be sent for Intermediate School Course in the order of his seniority. The Court has also held that a candidate, if denied opportunity to undergo Intermediate School Course, may at a subsequent stage become unfit because of his age or physical fitness or any other reason. Relevant extracts of the judgment read as: -

“15. For the reasons given above, we are of the opinion that every Head Constable on list 'C' has the right to be sent for the Intermediate School Course in the order of his seniority determined in accordance with rule 13.8. While sending the Head Constables for the Intermediate School Course, the Deputy Inspector-General of Police shall first send the confirmed Head Constables and after their list is exhausted, the Head Constables on probation will be sent and last of all officiating Head Constables will be sent. This appears to us to be the most reasonable, fair and equitable way of complying with the provisions of rule 13.9 of the



Police Rules in the interest of all the Head Constables in the police force, who legitimately aspire for promotion. Any Head Constable unwilling to undergo that course will of course be omitted.

16. For the reasons given above, these petitions are accepted and the respondents are directed to consider the cases of the petitioners along with other Head Constables for being sent for the Intermediate School Course at the Police Training College, Phillaur, in order of seniority as stated above. The selection for the new course starting in June, 1970 and subsequent courses shall be made on this basis. In view of the difficult nature of the points of law involved, the parties are left to bear their own costs.”

The respondent by impugned messages has made petitioners ineligible for Intermediate School Course which is impermissible in law. The impugned messages are in stark contradiction of aforesaid judgment.

- iii. Deputy Inspector General of Police in the name of DGP has issued WAN message which by no stretch of imagination can be called as order passed under Section 50 of 2017 Act. There is some procedure for issuing orders under a particular Section which is absent in the instant case.
- iv. The respondent has relied upon Clause (n) of Section 50 of Police Act. Said clause needs to be read with other clauses. All the clauses empower DGP to make regulations or issue orders with respect to law and order and administration of Police Department. The training of police force and management of training institutions cannot include

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different promotional courses like Lower School Course, Intermediate School Course and Upper School Course. These courses are contemplated by Punjab Police Rules, 1934 which fall within definition of '*existing law*' as contemplated by Article 366(10) of Constitution of India.

- v. DGP has not issued order under Section 50 which is evident from language of the WAN messages. It is clarification issued by an officer. As the State Government in exercise of power conferred by Police Act has not issued clarification by way of notification to remove difficulties, clarification issued by DGP is beyond his jurisdiction. He could not issue clarification relating to matters covered by PPR. Action of DGP amounted to amendment of Rule 13.9 of PPR which was impermissible in law and beyond his jurisdiction. Amendment in Rules and clarification to remove difficulties can be made/issued by State Government.
- vi. Section 4(3) of Police Act provides that pay, allowances, service conditions, mode of recruitment of Police Personnel shall be such as may be prescribed from time to time. Power under Section 4 can be exercised by State Government. Intermediate School Course being linked with promotion is integral part of service conditions, thus, any provision with respect to service conditions can be made either by way of Rules framed under Section 4(3) of Police Act or would be governed by PPR or Civil Service

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Rules. There is no question to regulate conditions of service by way of orders issued by the DGP.

- vii. As per Section 50(p) of Police Act, DGP has power to issue orders covering any aspect of police administration. Impression 'police administration' has not been defined under Police Act or PPR, however, from the reading of Section 8, 9 and 10 of Police Act, it is evident that police administration means creation of Police Commissionerates, Police Ranges and Police Districts for the purpose of administration. Thus, in the name of police administration, the respondent has no power to issue orders under Section 50(p) governing service conditions of the subordinate rank officers.
- viii. From the perusal of different clauses of Section 50 of Police Act, it is evident that DGP has power to control, manage and regulate members of service for the maintenance of law & order and proper administration. He has no power to regulate conditions of service of police officers.
- ix. As per Section 50, power of DGP is subject to provisions of Police Act as well as Rules made thereunder. From the preceding paragraphs, it is evident that respondent has issued impugned order contrary to Police Act as well as PPR.

17. In the wake of above discussion and findings, this Court is of the considered opinion that respondent cannot keep petitioners away from



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Intermediate School Course on the basis of aforesaid WAN messages. They are eligible for enlistment as per seniority, thus, should be deputed for Intermediate School Course.

18. In the backdrop, petitions are allowed. The respondents are hereby directed to depute the petitioners for ongoing Intermediate School Course. In the event, they are not be deputed for ongoing course, they shall be enlisted in the subsequent Intermediate School Course, however, would be deemed to have passed said course along with candidates who at present are undergoing Intermediate School Course.

19. It is made clear that respondent would consider case of Devender Malik (petitioner No.2 in *CWP No.27790 of 2025*) in the light of above observations and his entitlement.

(JAGMOHAN BANSAL)
JUDGE

15.10.2025
Mohit Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No