

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

CWP No.11077 of 2013

Date of Decision: 08.05.2015

Prem Kumar Verma and others

....Petitioners

Versus

State of Haryana and another

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. D.S. Rawat, Advocate
for the petitioners.

Mr. Harish Rathee, Sr. D.A.G., Haryana
for the respondent-State.

DAYA CHAUDHARY, J. (ORAL)

The present petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to prepare a fresh seniority list of Accounts Clerk as the seniority of the petitioners has not been re-fixed after their deemed date of promotion.

Learned counsel for the petitioners submits that the seniority of the petitioners has not been re-fixed from the deemed date of promotion for which they are entitled. Learned counsel has relied upon the judgments of this Court in cases ***Darshan Singh Nagpal vs The State of Haryana and others 1997(4) RSJ 252, Deep Chand Shivrian vs State of Haryana and others 1997(4) RSJ 33*** as well as ***R.C. Jain vs Haryana State Electricity Board, Panchkula 1995(2) RSJ 411***, in support of his contentions, wherein, it has been held that once an employee has been given the benefit of deemed date of promotion then his seniority is to be re-fixed as well.

Learned counsel for the respondent-State opposes the submissions made by learned counsel for the petitioners and submits that this petition has been filed after an un-explained delay. Now many employees have been promoted and some have even retired. He further submits that the petitioners have not challenged the seniority list. He also submits that the seniority of the petitioners as Sub Divisional Clerk was prepared in the year, 1995 after passing the departmental examination and after considering continuous length of service. The Petitioners have been granted the benefit of ACP and also of promotion on the higher post but without impleading the other affected parties, the seniority cannot be challenged.

Heard the arguments of learned counsel for the parties and have also perused the impugned order as well as other documents on the file.

Admittedly, the petitioners have been granted the benefit of deemed promotion but other consequential benefits of seniority have not been decided so far. The stand of the respondent-State is that the petitioners have been stepped up at par with one Amar Singh, Accounts Clerk, from reserved category. The grant of pay is personal matter and seniority is an *inter-se* matter between many employees. The petitioners have served a legal notice dated 07.02.2013 upon the respondents to re-fix their seniority on the post of Accounts Clerk but so far no order has been passed thereupon, whereas, the respondents are duty bound to consider and pass order on the legal notice.

Accordingly, in view of the submissions made by learned counsel for the petitioners and also the ratio of judgments in cases as mentioned above, the present petition is disposed of with a direction to the respondents to consider the issue of seniority in view of averments made in

the legal notice as well as in this writ petition and pass necessary order in accordance with law as well as the ratio of judgments cited by learned counsel for the petitioners.

The necessary exercise be done within a period of six months from the date of receipt of certified copy of this order.

The petition is disposed of accordingly.

08.05.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE