

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

CWP No.12835 of 2015
Date of decision: 02.07.2015

Neeru

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. S.K. Arora, Advocate, for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

ARUN PALLI J. (Oral)

Writ in the nature of mandamus is prayed for so as to direct the respondents to determine the seniority of the petitioner in the wake of Rule 11 of the Punjab State Education Class III (School Cadre) Service Rules, 1978 (for short, '1978 Rules') and consequently, she be afforded benefit of notional pay fixation and arrears of pay accruing from the actual date of joining. The petitioner, who is a member of the Lecturer Cadre, is aggrieved of the action of the respondent authorities for not determining her seniority pursuant to Rule 11 of the 1978 Rules. It is maintained that proviso to Rule 11 clearly postulates that in case of members of the cadre

recruited by direct appointment, it is the order of merit determined by the recruiting agency that shall govern the seniority. So much so, the matter in issue is purported to be squarely covered by a Division Bench judgment rendered in CWP No.19832 of 2003, titled Charan Dass Sharma v. State of Punjab and others, decided on 09.07.2004. Not just that, prior to the institution of this petition, petitioner purports to have even served upon the respondents a legal notice dated 10.03.2014 (Annexure P7). But that too has failed to evoke any response.

Learned counsel for the petitioner submits that at this stage, let this petition be disposed of only with a direction to the respondents to consider and decide the legal notice (Annexure P7), served by the petitioner, within a specified time.

That being so, and without expressing any opinion on merit, this petition is disposed of with a direction to the respondents to consider and decide the claim of the petitioner, as set out in her legal notice dated 10.03.2014 (Annexure P7), strictly in accordance with the law, within a period of three months from the receipt of certified copy of this order. Needless to assert, a comprehensive order shall be passed, assigning reasons in support of the decision arrived at. However, it is clarified that in the event of the petitioner being given the benefit of deemed seniority she would also be

entitled to all consequential benefits. But the benefit of consequential pay fixation would be granted only on a notional basis.

July 2, 2015
Rajan

(Arun Palli)
Judge