

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

CWP No.5478 of 2013

Date of decision: 06.10.2015

Rajesh and another

....Petitioners

versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Anilendra Pandey, Advocate and
Mr. C.S. Bagri, Advocate
for the petitioners.

Ms. Shruti Jain Goyal, AAG, Haryana.

1. To be referred to the reporters or not?
2. Whether the judgment should be reported in the digest.

DEEPAK SIBAL, J. (Oral)

The present petition challenges the seniority lists of Masters/Mistresses (Annexure P-2 and P-3).

A perusal of the impugned seniority lists show that the seniority therein has been determined on the basis of orders passed by this Court in **CWP No.20664 of 2008; "Surender Kumar Sharma vs. State of Haryana and others"** and **CWP No.2409 of 2008; "Vijay Singh and others vs. State of Haryana and others"**. Since the State had filed special Leave petitions against the above said judgments in **Surender Kumar's case** (*supra*) and **Vijay Singh's case** (*supra*), it was specifically

mentioned in the impugned seniority lists (Annexures P-2 and P-3) that they were subject to the final orders to be passed by the Apex Court in the pending Special Leave Petitions.

It is not disputed before me that the Special Leave Petition; "State of Haryana and others vs. Surender Kumar and others" was dismissed by the Apex Court on 19.11.2010 and since the dismissal was on the ground of delay alone, the question of law was kept open to be decided in another case. In a later judgment while deciding the other bunch of SLPs filed by the State in "State of Haryana and others vs. Vijay Singh and others", (2012)8 SCC 633, the Apex Court set aside the order of this Court by holding as under:-

"30. None of the aforesaid judgments can be read as laying down a proposition of law that a person who is appointed on purely ad hoc basis for a fixed period by an authority other than the one who is competent to make regular appointment to the service and such appointment is not made by the specified recruiting agency is entitled to have his ad hoc service counted for the purpose of fixation of seniority. Therefore, the respondents, who were appointed as Masters in different subjects, Physical Training Instructor and Hindi Teacher on purely ad hoc basis without following the procedure prescribed under the 1955 Rules are not entitled to have their seniority fixed on the basis of total length of service. As a corollary to this, we hold that the direction given by the High Court for re-fixation of the respondents' seniority by counting the ad hoc service cannot be

approved."

In view of the uncontroverted position, as above, the impugned seniority lists which were made on the basis of orders passed by this Court in **Vijay Singh's case(supra)** which stands overruled by the Apex Court in "**State of Haryana and others vs. Vijay Singh and others, (2012)8 SCC 633**" they are liable to be set aside.

Resultantly, while setting aside the impugned seniority lists (Annexures P-2 and P-3), a direction is given to the State of Haryana to reframe the seniority of the petitioners as per the law determined by the Apex Court in "**State of Haryana and others vs. Vijay Singh and others, (2012)8 SCC 633**".

The needful be done within six months from the receipt of a certified copy of this order.

(Deepak Sibal)
Judge

06.10.2015
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