

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1299 of 2013
Date of Decision:- 14.07.2015.

Balkar Singh and others

.....Appellants

Versus

Financial Commissioner, Revenue-cum-Secretary to Govt. of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

- 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?**

Present: Mr. Ajay Kumar Sharma, Advocate for the appellants.

Mr. Amit Chaudhary, Additional A.G. Punjab for respondent Nos.1 to 4.

Mr. Varun Sharma, Advocate for respondent Nos.8, 9 and 11.

SURYA KANT, J. (ORAL)

1.) The appellants and private respondents were selected as Revenue Patwaries by the Subordinate Services Selection Board, Punjab (in short 'the Board'). They were offered appointment vide order dated 11/12.01.1982. All of them were required to join within a period of one month. Admittedly, the appellants as well as the private respondents joined the place of posting within the period given for joining.

2.) At the time of formulation of their inter-se seniority, the authorities followed Rule 15 of the Punjab Revenue Patwaris Class III

Service Rules, 1966, according to which *“the seniority inter se of members of service in each cadre shall be maintained district wise and shall be determined by the length of continuous service on a post in that cadre.”*

3.) Resultantly, the private respondents who are alleged to have joined or taken charge earlier than the appellants, were placed above in the seniority list though in the 'selection-list' prepared by the Board, private respondents are below the appellants.

4.) Aggrieved by the determination of above mentioned seniority, the appellants approached this Court but learned Single Judge has dismissed their writ petition primarily on the strength of Rule 15 of 1966 Rules, referred to above.

5.) During pendency of these proceedings, the private respondents are said to have retired. Similarly, most of the appellants have also retired except two of them who are still in service.

6.) We have heard learned counsel for the parties and gone through the record. In our considered view, the 'merit list' prepared by the Board at the time of recruitment ought to have been the determinative factor for fixation of seniority, irrespective of the dates of joining of directly recruited candidates. The date of joining, if it is within the stipulated period, is totally incidental and depends upon the distance of place of posting. A person higher in merit, if posted at a far away place, may take one or two days to reach as compared to a candidate lower in merit who is posted at the nearby place. This cannot be the criteria for inter se seniority. Rule 15 has to be construed harmoniously to mean that “length of continuous service shall commence from the cut-off date prescribed for joining.

7.) Consequently, we hold that as a matter of principle, the

merit list prepared by the Board ought to have been the basis for determination of inter se seniority.

8.) However, having regard to the fact that the private respondents or most of the appellants have retired, we direct that seniority of the retired persons would not be re-determined to affect their pension or other retiral benefits. Similarly, those appellants who have retired from service shall be granted only the notional seniority and promotions without any arrears of pay etc. The two appellants were still in service shall also be entitled to notional seniority and consequential promotion, if any, without payment of arrears of pay. We have declined the arrears of pay/monetary benefits to the appellants for the reason that there is noticeable delay on their part in seeking re-determination of the seniority. The Competent Authority is directed to undertake the exercise in the manner as directed above within a period of four months from the date of receipt of certified copy of this order.

9.) Disposed of.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

July 14, 2015.

sandeep sethi