

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1782 of 2013 (O&M)
Date of Decision:- 13.07.2015.

Baljinder Singh and others

.....Appellants

Versus

State of Punjab and another

.....Respondents

LPA No.1783 of 2013 (O&M)

Baljinder Singh and others

.....Appellants

Versus

Tarsem Singh and another

.....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. R.K. Malik, Senior Advocate with
Mr. Vijay Dahiya, Advocate for the appellants.

Mr. K.K. Gupta, Additional A.G. Punjab.

Mr. Pankaj Kundra, Advocate for
Mr. Deepak Sabharwal, Advocate for
respondent No.1 in LPA No.1783 of 2013.

Mr. Mukul Aggarwal, Advocate for
respondent No.2 in LPA No.1782 of 2013 and
for respondent No.8 in LPA No.1783 of 2013.

Harjeet Singh Minhas, Advocate for
respondent Nos.4 and 5 in
LPA No.1783 of 2013.

SURYA KANT, J. (ORAL)

1.) These two Letter Patent Appeals are directed against the judgment dated 26.09.2013 whereby learned Single Judge has dismissed the appellants' writ petition.

2.) The issue that arose for consideration of the learned Single Judge was whether the appellants, who joined the Punjab State Forest Development Corporation as Saw Setters and were later on merged in the cadre of Field Assistants, are entitled to seniority from the date of their initial appointment as Saw Setters or from the date of absorption?

3.) The facts are broadly admitted. The prescribed qualification for the post of Saw Setter was Matriculation with Punjabi and the "skill to maintain and sharpen the tools" whereas, the prescribed qualification for the post of Field Assistant was Matriculation with Punjabi in Second Division besides the minimum physical standards. The pay scale of both the posts was same i.e. ₹ 950-1800/-.

4.) The appellants joined as Saw Setters on different dates in the year 1985, 1986 and 1988. The Corporation took a decision and merged them in the cadre of Field Assistants on 30.10.2001. The original seniority was kept intact and based thereupon, they were

promoted as Field Supervisors on 03.05.2002.

5.) Some of the Field Assistants who were appointed before 30.10.2001 though after the appointment of appellants as Saw Setters, objected to the above stated decision and finally, the Corporation passed the order dated 27.05.2004 granting seniority to Saw Setters who were merged as Field Assistants only from the date of such merger i.e. 30.10.2001 and not from the date of their original appointment(s). The above stated decision was challenged by appellants as they were ordered to be reverted from the post of Field Supervisors. This Court though granted them interim stay but finally the Single Judge has dismissed their writ petition. In this Letters Patent Appeal also, reversion of the appellants was stayed and as such, they are continuing on the promotional post of Field Supervisors. One of them is stated to have got further promotion also.

6.) It is in this backdrop that the question which requires determination is whether the appellants are entitled to be assigned seniority from the original dates of appointment as Saw Setters or from the date of merger only i.e. 30.10.2001?

7.) Some more facts have a direct bearing on the issue. It was admittedly not a case of wholesome merger or transfer of Saw Setters to the cadre of Field Assistants. Only those Saw Setters who were in possession of the qualification and physical standard prescribed for the post of Field Assistants, were merged in the later

category. Secondly, the Saw Setters did not make any request for their merger in the cadre of Field Assistants. Such a decision was taken in public interest due to lack of manpower in the cadre of Field Assistants. Thirdly, no condition was imposed that the seniority shall be assigned only from the date of merger.

8.) We further find that in fact the State Government had taken a conscious decision on 04.03.1997 (P-2/4) informing the Corporation that only eligible Saw Setters/Mechanics are to be appointed as Field Assistants and after their appointment, "their seniority has to be counted from the date of their appointment as Saw Setters and Mechanics."

9.) We have heard learned counsel for the parties at considerable length. Learned counsel for the Corporation is unable to point out that the above stated Government decision was reversed or modified before the Saw Setters were actually merged in the cadre of Field Assistants. Learned State counsel also submits that no contrary decision is available on record.

10.) The Corporation is a State Government Undertaking. Ordinarily, it follows guidelines, directions and orders of the State Government. It appears to us that the decision to merge some of the Saw Setters in the Cadre of Field Assistants was taken with the explicit approval and on such terms and conditions as were approved by State Government. If that is so, the Corporation cannot revoke, review or vary those terms and conditions at its end without prior

approval of the State Government.

11.) Taking into consideration the totality of the circumstances, we are of the view that the *inter se* seniority dispute of Saw Setters/Mechanics who were merged in the cadre of Field Assistants deserves to be resolved at the level of State Government only.

12.) For the reasons aforestated, we allow these appeals in part; modify the order passed by learned Single Judge and dispose of the appellants' writ petition without expressing any views on merits on the *inter se* seniority dispute, with a direction to the Principal Secretary, Department of Forests and Wildlife to hear the Saw Setters/Mechanics who have been merged in the cadre of Field Assistants as well as the affected Field Assistants in their respective representative capacities, besides considering the representation submitted by each group. The Principal Secretary shall keep in view the previous Government decision dated 04.03.1997 and/or any other decision taken subsequently which might have some bearing on the subject issue. He shall thereafter determine the question as to how and in what manner seniority is required to be assigned to Saw Setters and Mechanics who were unilaterally absorbed as Field Assistants. The self-speaking order shall be passed within four months from the date of receipt of representations which shall be given by the concerned employees within one month from the date of receipt of copy of this order. The Corporation shall be required to give effect to the decision of the State Government.

13.) Till such decision is taken, the interim order staying the appellants' reversion shall continue to operate.

**(SURYA KANT)
JUDGE**

**(P.B. BAJANTHRI)
JUDGE**

July 13, 2015.

sandeep sethi