

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

Date of decision: 18.05.2016

CWP No.6679 of 1997

Smt. Surinder Kaur & others

...Petitioners

Vs.

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Dinesh Kumar, Advocate, for the petitioners.

Mr. Harkesh Manuja, Addl. AG, Punjab.

1. *To be referred to the Reporters or not?*
2. *Whether the judgment should be reported in the Digest?*

RAJIV NARAIN RAINA, J. (ORAL)

The petitioners were appointed to service of the respondent department prior to 1984, when instructions dated 17.04.1984 (Annex P-7) were in vogue issued on the subject of “Bifurcation of Cadre strength of Clerks/Steno-typists Guidelines for Appointment to Posts of Senior Clerks/Steno-typists Grade I”. Para.3 of the executive instructions laid down three fresh pre-requisites for placement as a Senior Clerk/Steno-typist Grade I. These were: (i) the official should have completed three years’ service in the lower scale of Clerk/Steno-typist; (ii) he/she should have completed the probationary period satisfactorily; & (iii) he/she should have a satisfactory record of service. Apart therefrom, the other conditions for placement in the senior scale would remain unchanged. It was mentioned in Para.3 of the instructions that they would take effect from the date of issue and past cases shall not be re-opened. These instructions are prospective in operation as all

executive instructions are and would not destroy the rights which have accrued to the petitioners prior to coming into force of these instructions.

The petitioners have approached this Court by way of present petition for directions to the respondents to place them in the senior scale with effect from due dates prior to the promulgation of the executive instructions (supra). It is their case that the Department has practiced discrimination against them. Similarly placed persons namely Daljit Singh, Prem Parkash Bhardwaj, Pritam Singh, Dhanpati Devi & Bara Ram mentioned in the office orders Annex P-8 & P-9 have been designated Senior Clerks with effect from the date of their initial appointment instead of 01.03.1987. These office orders are dated 10.01.1991 and 28.01.1991 respectively covering the five cases issued by the Director, Punjab State Lotteries, Chandigarh.

The State has not explained the position mentioned in the replication by filing a counter. Therefore, the facts pleaded in the replication qua the similarly placed persons are accepted on the principle of non-traverse, since what is not denied specifically stands admitted. No other point was addressed.

For the foregoing reasons, this petition is allowed. The stand taken in the written statement in contesting the case and refusal to grant the benefit to the petitioners is declared legally bad. A mandamus is issued to the respondents to fix and grant the scale of Senior Clerks in the pay scale of Rs.510-800 (unrevised) with effect from the respective dates of initial appointments, which have been mentioned in Para.2 of the petition ranging from 07.09.1983 to 06.01.1984 (13 petitioners) with all consequential benefits.

In the cases of those of the petitioners who have retired, a further direction is issued to the respondents to re-fix their pay, pension and all other benefits that may fall in the way with the declaration given in this order. The

amounts be calculated in each of the cases and paid to the petitioners within a period of three months from the date of receipt of certified copy of this order.

18.05.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE