

CWP No.12199 of 2015 (O&M)

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

CWP No.12199 of 2015 (O&M)

Date of Order: 15.9.2016

Balbir Singh and Ors.

....Petitioners

Versus

Pepsu Road Transport Corp. & Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. S.S. Salar, Advocate for the petitioners.

Mr. Harsh Aggarwal, Advocate for
respondent No.1.

JASWANT SINGH, J (ORAL)

The four petitioners, namely, Balbir Singh, Gursewak Singh, Jaspal Singh and Major Singh, belong to the Scheduled Caste Category. They were recruited as Conductors on contractual basis by the respondent-Pepsu Road Transport Corporation Ltd (for brevity "PRTC") in the year 2001.

Such like contractual employees including petitioners filed CWP No.8239-40 of 2008 claiming their appointment as Conductors on regular basis since the statutory Regulation of PRTC did not contemplate any engagement on contract basis. Both the said petitions were allowed by the learned Single Bench of this Court vide judgment dated 22.3.2010 (**P.1**), the operative paragraphs of which read as under:

"10. The petitioners are entitled to the declaration of the status that on the completion of their first period of six months, they became probationers and after a completion of one year, they were deemed to be permanent. In effect from the respective dates of

employment after completion of 18 months, each one of the workmen is entitled to be treated as permanent and put on a scale appropriate to the status as permanent employee. By such a process, I shall not visit the Corporation with any financial obligation for the past, but the exercise of fixing the scales in the manner which I have referred to by the treatment of the petitioners' status as permanent employees, shall begin within a period of six weeks from the date of receipt of the copy of the order and the payment of salaries shall be made in future on such a reckoning.

11. The initial scale on the deemed date of confirmation shall on the basis of Regulation 14, which reads as under:

"The initial pay of the employee shall be fixed in accordance with the provisions of the Punjab Civil Services Rules, Vol. I Part I, which have been adopted as such and made applicable to that extent. Pay scales shall be on the pattern of the State Government."

The financial implication that is denied to the petitioner shall be only with reference to the past benefit which would have accrued by treating them as permanent. However, the proper reckoning of the confirmation and the scales, which they are entitled to shall be counted for the purpose of all future benefits including retiral benefits. The claim that the petitioners had made in the writ petition, which had been rejected by the decision of the Corporation under Annexure P- 10 and impugned in the writ petition, is quashed."

It is, thus, claimed that the petitioners have to be treated as regular employees of the PRTC in the rank of Conductors w.e.f 18 months after their initial dates of their

engagement/appointment on contract basis and accordingly they deserve to be assigned seniority.

In the present case, the petitioners have sought quashing of the order dated 29.4.2015 (**P.5**) whereby Kuldeep Singh and Sangat Singh, private respondent Nos.2 & 3 respectively have been promoted from the rank of Conductors to Sub Inspectors against Roster Point meant for Scheduled Caste Category. It is asserted that two private respondents are compassionate appointees of the year 2005 and, therefore would rank quite junior to the petitioners. In the alternative, it is prayed that the petitioners also be promoted with effect from the dates, the said two juniors have been promoted.

Upon notice, reply has been filed on behalf of official respondent No.1-PRTC, wherein it is stated that the seniority list of the Conductors has been finalized and issued on 24.7.2015. It is admitted fact that the petitioners have been placed senior to the private respondents in that list based on the decision of **Annexure P.1** in their favour, however, subject to the pending decision in LPA No.1305 of 2010 filed against the judgment at Annexure P.1.

As per office report, the service upon private respondent Nos.2 & 3 stood complete for 25.8.2015 but since then neither anyone has appeared on their behalf nor any reply has been filed.

From the perusal of the paper book, it is evident that the claim of the petitioners for promotion being senior to the private respondents has substantial merit, as they have been

placed senior to the private respondents and also belong to the Category of Scheduled Caste. Since the seniority list has been finalized after the filing of the present writ petition, it is deemed appropriate to dispose of the present petition with a direction to the respondent-PRTC to re-consider the case of the petitioners and private respondents for promotion to the rank of Sub Inspectors as per the finalized seniority list within a period of three months of receipt of certified copy of this order, which shall, however, be subject to the decision of pending LPA No. 1305 of 2010.

Ordered accordingly.

If upon such re-consideration, the petitioners are found entitled to be promoted with effect from the dates their juniors were promoted, then only notional promotion without any monetary benefits would be allowed.

With the aforesaid observation, present writ petition stands disposed of.

September 15, 2016
manoj

(JASWANT SINGH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No