

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

C.W.P No. 18847 of 2013

Date of decision : 05.05.2016

Bhupesh Kumar

...Petitioner

versus

State of Haryana & ors.

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.N. Yadav, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl.A.G. Haryana

Mr. R.K. Hooda, Advocate
for respondent Nos. 3 to 5.

RITU BAHRI , J.

By way of present writ petition, petitioner is seeking quashing of impugned seniority list dated 02.04.2013 (P-1) whereby private respondents, who were junior to the petitioner, were shown senior to him. Further prayer is for issuance of directions to the respondents to re-fix the seniority of the petitioner from the date of promotion.

Petitioner was enrolled as Auditor in the respondent-department on 23.08.2007 and promoted to the post of Senior Auditor on 10.01.2012 after passing the test and the private respondents who passed the test on 16.04.2012 and they were promoted on 18.04.2012.

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Despite the fact that the private respondents were junior to the petitioner, petitioner was shown at Sr. No. 23 and respondent Nos. 3 to 5 were shown at Sr. No. 6, 13 and 19. Petitioner gave its representation on 05.06.2013, which was rejected on 30.07.2013.

On notice, a written statement was filed on behalf of respondent Nos. 1 and 2 wherein it has been stated that respondent Nos. 4 and 5 had filed CWP No. 13191 of 2011, which was disposed of by this Court on 17.04.2012 and in compliance of these orders, the result of respondent Nos. 4 and 5 was taken as having been declared on the same day when the result of other candidates were declared and the seniority has been kept intact giving all consequential benefits considering their date of posting on promotion as on 18.04.2012 from Auditor to Senior Auditor in pursuance to office order dated 16.04.2012 (R-2) and accordingly, office order dated 02.04.2013 (P-1) was passed.

In the written statement filed by respondent Nos. 3 to 5, it has been stated that respondent No. 3 was given permission to sit in SAS Part I and Part II (LAD) to be held from 30.07.2011 to 02.08.2011 whereas respondent No. 4 and 5 had filed CWP No. 13191 of 2011, as permission was declined to them by the Department and this Court vide its interim order allowed respondent Nos. 4 and 5 to appear in the above exam held on 30.07.2011 to 02.08.2011 and their result was ordered to be kept in sealed cover and respondent Nos. 3 to 5 cleared

their examination and result of respondent Nos. 4 and 5 was conveyed to them on 16.04.2012 and vide order dated 17.04.2012 directed that the petitioner's/respondent Nos. 4 and 5 result be taken as having been declared on the same day when the result of other candidates were also declared and consequential benefits as regards promotion post will apply to the petitioners as well.

Thereafter, the department vide order dated 03.03.2015 have clarified that the date of promotion of respondent Nos. 3 to 5 have been changed from 16.04.2012 to 10.01.2012 on the date the promotion were given to the person who have appeared in the examination. Further, it has been stated that as per Local Audit Department Haryana Chapter 1 (Appointments) Rule 1.5 (b), success in the Subordinate Accounts Service Examination of the Local Audit Department shall not confer any right for appointment as Senior Auditor. All appointments by promotion shall be made by the Finance Secretary according to the date of passing of the Examination. Seniority will be counted from the date of passing Part II of the S.A.S Examination (Local Audit Department).

After going through the contents of the writ petition and the written statements filed by the respondents, the writ petition is liable to be dismissed.

Initially the private respondents were not allowed to sit in

the examination and they approached this Court and this Court vide its interim order allowed respondent Nos. 4 and 5 to appear in the above exam held on 30.07.2011 to 02.08.2011 and their result was ordered to be kept in sealed cover. Subsequently after they cleared the test, this Court vide order dated 17.04.2012 directed that the result of petitioners/respondent Nos. 4 and 5 must be taken as having been declared on the same day when the result of other candidates were declared and consequential benefits as regards promotion post will apply to the petitioners as well. Further as per Local Audit Department Haryana Chapter 1 (Appointments) Rule 1.5 (b), success in the Subordinate Accounts Service Examination of the Local Audit Department shall not confer any right for appointment as Senior Auditor.

The impugned order dated 02.04.2013 (P-1) has rightly been passed by the department. The order dated 03.03.2015 (R-1) has also been rightly passed by the department, in pursuance of direction given by this Court in CWP No. 13191 of 2011 and in terms of Local Audit Department Haryana Chapter 1 (Appointments) Rule 1.5 (b)

The writ petition is dismissed being devoid of any merit.

05.05.2016

G Arora

(RITU BAHRI)

JUDGE

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