

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 7362 of 2013

Date of Decision : January 12, 2016

Ram Kishan Siwach and others Petitioners

Vs.

State of Haryana and others Respondents

Case No. : C. W. P.No. 10900 of 2013

Date of Decision : January 12, 2016

Ramesh Chand Petitioner

Vs.

State of Haryana and others Respondents

Case No. : C. W. P.No. 16441 of 2013

Date of Decision : January 12, 2016

Rishi Pal Petitioner

Vs.

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. Rajesh Bansal, Advocate
for the petitioner(s).

Ms. Shruti Jain Goyal, AAG, Haryana.

Mr. Rajender Malik, Advocate
for respondents no. 6 and 7.

* * *

DEEPAK SIBAL, J. :

These petitions being **C. W. P. Nos. 7362, 10900 and 16441 of 2013**, involving similar questions of fact and law, were taken up for hearing together and are being disposed of by this common judgment. For the sake of convenience, facts are being extracted from **C. W. P. No. 7362 of 2013**.

Through the present writ petition, the petitioners seek the issuance of a direction to the respondents to consider their case for promotion to the posts of Clerks in the light of promotions given to respondents no. 6 and 7, who, according to the petitioners, are junior to them.

After hearing counsel for the parties and perusing the record, the uncontroverted factual position, which has emerged is that the petitioners were appointed as Class-IV employees in different schools in the State of Haryana. The dates of appointment, as given in the written statement, which remained uncontroverted as no replication to the same was filed, are as under :-

<u>Sr. No.</u>	<u>Name of the petitioner</u>	<u>Date of appointment</u>
1.	Ram Kishan (SC)	01-02-2000
2.	Mukesh Kumar (SC)	28-04-2000

- | | | |
|----|------------------------------|-------------------|
| 3. | <i>Rajesh (Gen.)</i> | <i>26-02-1998</i> |
| 4. | <i>Kamal Kishore (BCA)</i> | <i>25-10-2001</i> |
| 5. | <i>Rajinder Singh (Gen.)</i> | <i>23-05-2000</i> |
| 6. | <i>Anil Kumar (Gen.)</i> | <i>21-01-2000</i> |
| 7. | <i>Hawa Singh (SC)</i> | <i>12-05-2000</i> |

The promotion of Class IV employees like the petitioners to the posts of Clerks is governed by Haryana Education Department, Sub Offices Ministerial (Group C) Services Rules, 1983 (hereinafter referred to as – the 1983 Rules). Rule 3 of the 1983 Rules, which prescribes the eligibility for promotion, is as under :-

“Eligibility for promotion :- Notwithstanding anything to the contrary contained in any other service rules framed in this behalf, Group C and Group D employees who are Matriculate and have put in five years service on Group C or Group D posts, whose scales of pay are less than or equal to the scale of the post of Clerk, shall be eligible for promotion to the 20% posts of Clerk reserved for them.”

It is further the undisputed position that respondents no. 6 and 7 were appointed on Class IV posts on 01.04.1989 and 01.05.1991 respectively i.e. much before the dates of appointment of the petitioners. It is further borne out from the written statement of the respondents, which is

uncontroverted by the petitioners, that no person, appointed prior to the respective dates of appointments of each of the petitioners, as given above, has been promoted.

In view of the aforesaid facts, the entire case set up by the petitioner, falls.

Learned counsel for the petitioners argues that the private respondents were transferred to other schools in the year 2012 and thus, on such transfer, as per Rules, they would lose their seniority prior to the dates of their transfer. This argument too needs to be rejected in view of the uncontroverted stand of the State that respondents no. 6 and 7 were never transferred on their own request. They were posted to different schools by the State, while implementing the rationalization policy framed by it and thus, since the transfer from one school to the other was not on the request of the private respondents, they would not lose their seniority on such posting in different schools.

In view of the above, finding no merit in all these three petitions being **C. W. P. Nos. 7362, 10900 and 16441 of 2013**, the same are hereby ordered to be dismissed, with no order as to costs.

A photocopy of this judgment be placed on the files of other two connected cases.

(DEEPAK SIBAL)
JUDGE

January 12, 2016