

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

CWP No.8330 of 1996

Date of Decision:24.05.2017

Mrs. D.P. Malik

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. R.K. Malik, Sr. Advocate with
Mr. Kuldeep Sheoran, Advocate for the petitioner.

Mr. R.K. Doon, A.A.G. Haryana.

P.B. BAJANTHRI J. (Oral)

Petitioner has questioned the validity of order dated 27.04.1994 and 8.7.1994 (Annexure P-6 and P-7 respectively).

Petitioner and private respondents were candidates for recruitment to the post of Child Development Project Officers (for short “CDPO”) in the year 1985. They were selected and appointed on 11.03.1985 vide Annexure P-1. Names of private respondents appeared at serial Nos.21, 22 and 25. Whereas petitioner's name appeared at serial No.26. Appointment order has been issued with reference to the merit list prepared by the selecting authority. Petitioner came to know that the petitioner and private respondents have been awarded same marks. Consequently, while preparing merit list, selecting authority should have placed the candidate over and above in order of merit who is older in age. Petitioner is stated to be older in age among petitioner and private respondents. This was noticed when the seniority list was notified on 30.6.1992. Feeling aggrieved by the ranking assigned in the cadre of CDPO, petitioner is stated to have submitted representation to rectify the ranking

assigned to her in the seniority list. Grievance of the petitioner was rejected vide communication dated 27.4.1994 and 8.7.1994 respectively. Hence, the present petition.

Learned counsel for the petitioner vehemently contended that the petitioner and private respondents have secured same marks in the selection process and obtaining same marks by more than one person, in such a situation, candidate, who is older in age, is required to be placed over and above in order of merit. Therefore, petitioner who is older in age than the private respondents should have been placed over and above in order of merit. Consequently, seniority list should have been maintained accordingly. He further submitted that at the time of issuing order of appointment marks secured by each of the candidate were not notified. Marks obtained by the petitioner were made known to her only in the year 1992. Therefore, the petitioner has questioned the ranking assigned to her in the seniority list of CDPO and the same shall be rectified even now. Thus, Annexures P-6 and P-7 are not in accordance with the principle relating to placing the candidate over and above in order of merit who is older in age when more than one person have secured same marks in the selection process.

On the other hand, learned counsel for the respondents-State submitted that cause of action accrued to the petitioner in the year 1985 as and when order of appointment was issued. Petitioner should have questioned the ranking assigned in the order of appointment. Unless and until, ranking assigned in the order of appointment which is in accordance with the merit list prepared by the selecting authority is not challenged, ranking cannot be altered in the seniority list. Therefore, petitioner has not

made out a case so as to seek for alteration of ranking in the seniority list.

Heard learned counsel for the parties.

Crux of the matter is whether the petitioner is entitled to alter the ranking assigned in the seniority list of CDPO or not?

No doubt, petitioner and private respondents have secured equal marks in the selection process and the fact that candidate who is older in age should be placed over and above in order of merit when equal marks are obtained by more than one person. Petitioner had the cause of action as and when select list was notified by the selecting authority and further while issuing order of appointment. In both select list and order of appointment, petitioner has been placed below the private respondents. Unless and until, select list and order of appointment is altered, petitioner is not entitled for alteration of ranking in the seniority list of CDPO. That apart the petitioner has not questioned the ranking assigned in the select list as well as order of appointment which is based on the merit list. Even if the petitioner challenges the order of appointment dated 11.3.1985, delay and laches would be a hurdle. Thus, the petitioner has not made out a case so as to interfere in the ranking assigned in the seniority list of CDPOs.

Accordingly, petition stands dismissed.

24.05.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No