

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

LPA No.536 of 2017 (O&M)

Date of Decision : 19.07.2017

Gurnam Singh and others

....Appellants

Versus

State of Haryana and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI

....

Present: Mr. Ram Niwas Sharma, Advocate
for the appellants.

....

MAHESH GROVER, J. (Oral)

The appellants impugn the judgment of the learned Single Judge dated 24.01.2017 in the present appeal.

We would have to advert to some facts. In the year 1983 an advertisement was made for filling up 95 posts of Patwari. The selection made pursuant to this advertisement saw the exclusion of the appellants which resulted in a challenge by them to the selection process by filing CWP No.3363 of 1984 (Amarjit Singh and others v. State of Haryana and others). Some other persons who were also similarly left out of the selection had also impugned the very same selection by filing CWP No.2664 of 1984. This writ petition as also the writ petition of the appellants were disposed of on a concession given by the State that the petitioners therein would be admitted to the next training course (Patwar Course). This arrangement was accepted by both sets of petitioners in the writ petitions.

The present appellants were thereafter appointed in the year 2008 which appointment they accepted. The writ petitioners in CWP No.2664 of 1984, though similarly situated as the appellants at that point of time, were also given appointment letters in the year 2005 but their appointment related back to the date when the other selected incumbents pursuant to the selection process of 1983 were appointed i.e. from 1986.

In the present appeal the appellants raised a dispute regarding their seniority which had been granted to them in accordance with the rules envisaging length of service in the cadre to be the guiding factor for assignment of seniority. For the purpose of reference, Rule 15 of the Haryana Revenue Patwaris (Group-C) Services Rules, 1981 is extracted herebelow :-

“15. Seniority.--Seniority, inter se of members of the service, shall be determined by the length of continuous service on any post in the service :

Provided that where there are different cadres in the service, the seniority shall be determined separately for each cadre :

Provided further that in the case of members appointed by direct recruitment, the order of merit determined by the Board shall not be disturbed in fixing the seniority :

Provided further that in the case of two or more members appointed on the same date, their seniority shall be determined as follows :-

- (a) a member appointed by direct recruitment shall be senior to a member appointed by promotion or by transfer;
- (b) a member appointed by promotion shall be senior to a member appointed by transfer;
- (c) in the case of members appointed by promotion or by transfer seniority shall be determined according to the seniority of such members in the appointments from which they were promoted or transferred; and
- (d) in the case of members appointed by transfer from different cadres, their seniority shall be determined according to pay, preference being given to member who was drawing a higher rate of pay in his previous appointment; and if the rates of pay drawn are also same, then by the length of their service in the appointments, and if the length of such service is also the same, the older member shall be senior to the younger member.”

The grievance in the writ petition was that their seniority should be reckoned w.e.f. 1986 i.e. the date when the persons who participated in the same selection process were appointed after being selected.

Learned counsel for the appellants contends that they were meant to be treated at par with those persons, particularly when the

writ petitioners in CWP No.2664 of 1984 were granted appointment w.e.f. 1986 (as a deeming date). We have pointedly asked the learned counsel for the appellants as to whether they questioned the non-grant of this deeming date to them when their appointments were made in the year 2008, particularly when they were in the know of some other persons being granted such a benefit. Learned counsel for the appellants concedes that no such challenge was mounted at the time when their appointments were made. However, various representations and last one on 25.06.2012 were made and when the same were not decided then CWP No.5447 of 2015 was filed. The writ petition was disposed of with a direction to the State to consider the representation dated 25.06.2012 by passing a speaking order. Whereafter the claim of the appellants was rejected vide order dated 09.06.2015. A perusal of this order indicates reliance by the respondent-State on Rule 15 mandating length of service to be the main criteria to determine seniority of the members of service.

All these facts indicate that the appellants made a grievance in the year 2008 of being granted deemed date of appointment w.e.f. 1986, if their best case is to be considered and accepted. The earlier writ petition No.3363 of 1984 was decided in the year 2003 and the appointments made in the year 2008, three years after the petitioners in CWP No.2664 of 1984 were granted appointment. Therefore, all these facts were known to the appellants but no such grievance was ever made except making representations after as long as seven years before taking recourse to the last writ

petition filed in the year 2015. Therefore, we are of the opinion that the appellants failed to mount a challenge and at this belated stage their plea of being granted seniority from 1986 cannot be accepted particularly when it runs contrary to Rule 15, extracted above.

However, the delay of 37 days in filing the appeal is hereby condoned.

Appeal dismissed.

(MAHESH GROVER)
JUDGE

19.07.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No