

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

CWP No. 15009 of 2014 (O&M)

Date of Decision: 18.09.2018.

Surinder Kumar

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present: Mr. Aman Arora, Advocate,
for the petitioner.

Ms. Sunint Kaur, AAG Punjab.

JITENDRA CHAUHAN.J.

This civil writ petition has been filed under Articles 226 and 227 of the Constitution of India for setting aside the order dated 16.12.2011 (Annexure P-8) vide which final seniority list of the Senior Assistants in the office of Deputy Commissioner, Amritsar had been prepared and respondent No.5 had been shown to be senior to the petitioner and for setting aside of order dated 16.05.2013 (Annexure P-13) vide which the appeal filed by the petitioner against the order dated 16.12.2011 (Annexure P-8) was dismissed.

It has been contended that the petitioner has been working as Senior Assistant in the office of Deputy Commissioner, Amritsar. In the year 2006, the Government of Punjab created a new District, namely, District Tarn Taran out of District Amritsar. The petitioner and respondent No.5 had been in the office of Deputy Commissioner, Amritsar. The department sought options from the

employees for absorption in District Tarn Taran. Respondent No.5 opted to be absorbed in District Tarn Taran. Accordingly, respondent No.5 was transferred to District Tarn Taran. Thereafter, on request made by respondent No.5, she was re-transferred to District Amritsar. In the impugned seniority list (Annexure P-8), respondent No.5 had been shown senior to the petitioner whereas, after re-transfer to District Amritsar, she ought to have been placed at the bottom, therefore, it is asserted that the seniority list is bad in law and liable to be set aside.

On the other hand, the learned State counsel submits that though, respondent No.5 had opted for District Tarn Taran but before any decision upon her application could be taken, she moved another application requesting to send her back to the office of Deputy Commissioner, Amritsar on the ground that her husband was suffering from chronic disease and her son was handicapped. Respondent No.2 considered the application of respondent No.5 and sent her back to her parent office vide office order dated 19.03.2007 and it is clear from the said order that it was not a transfer but just an order to send the employee back to her parent office.

Heard.

Admittedly, in the parent department i.e. office of Deputy Commissioner, Amritsar, respondent No.5 was senior to the petitioner. However, on carving out of new District Tarn Taran, respondent No.5 opted to be absorbed in District Tarn Taran. It is to be

noticed that before any decision was taken on her application, a fresh

application was moved for sending her back to her parent department i.e. office of Deputy Commissioner, Amrtisar whereupon vide order dated 19.03.2007 (Annexure P-5), she was sent back to her parent department. This Court is of the opinion that once respondent No.5 has moved fresh application for being transferred back to District Amritsar, her original application stood revoked impliedly because till that date, no decision had been taken on her application, therefore, she has been rightly placed above the petitioner in the seniority list. No ground is made out to interfere in the seniority list.

Consequently, the writ petition is dismissed.

18.09.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

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