

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

CWP No.21248 of 2012.

Date of Decision: 14.02.2018.

Jaskirtan Kaur and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Pankaj Jain, Advocate,
for the petitioners.

Ms. Deepali Puri, Addl. AG, Punjab.

Mr. R.K. Arora, Advocate,
for respondent Nos. 3 to 7, 10, 15 and 16.

JITENDRA CHAUHAN.J.

Challenge in this civil writ petition is to the seniority list dated 22.08.2012 (Anneuxre P-4) issued by respondent/department whereby private respondents have been shown senior to the petitioners.

It has been pleaded that the petitioners were selected and appointed as Clerks by Subordinate Services Selection Board. Prior to their appointment, the private respondents have been promoted as Clerks from Lascars even though none of them had passed type test (Punjabi) as prescribed under the circular dated 27.10.1998. The private respondents cleared the mandatory type test after 2001 i.e. after the appointment of the petitioners as Clerks. The respondent/department has issued a provisional seniority list vide order dated 20.07.2012 , Annexure P-2, whereby the private respondents

have been shown senior to the petitioners. The petitioners raised objections to the provisional seniority list vide Annexure P-3 however, the objections were overturned and the provisional seniority list showing the private respondents as seniors has been maintained vide Annexure P-4. The persons mentioned at Sr.1 to 24 in Annexure P-4 are being considered for promotion to Senior Assistants.

The defence taken by respondent Nos. 1 and 2/department is that the private respondents had joined the service before the petitioners thus, they are seniors to the petitioners. The passing of mandatory type test only entitles them to earn annual increments and it does not affect their seniority.

In the written statement filed by private respondent Nos. 3 to 6, 15 and 16, it has been averred that the petitioners are direct recruits whereas, the private respondents are promotees and they had joined service much prior to the appointment of the petitioners. The promotion to the post of Clerk from amongst the Lascars is governed by the Punjab Education Department (State Service Class-III), NCC Cadre Rules, 1964. As per point No.4, the Clerks are to be appointed from two sources: (i) from Store Keepers or Lascars provided that the Lascars are Matriculate; have experience of three years and; must have qualified the departmental examination. There is no condition of passing type test for promotion from Lascars to Clerks.

Heard.

It is to be noticed that the petitioners were appointed as Clerks by way of direct recruitment through Punjab Subordinate Services Selection Board, Chandigarh, whereas, the private respondents who were in service of the respondent/department as Lascars had been promoted as Clerks, even prior to the induction of the petitioner on the establishment. The private respondents have passed the departmental examination as well. As per the stand of the respondent/department, the passing of typing test is mandatory only for the purpose of earning annual increment and not for the purpose of promotion. The petitioners have failed to show any rule which prescribes type test as mandatory for the purpose of promotion.

In view of above, there is no merit in the present writ petition. Consequently, the same is dismissed.

14.02.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

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