

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

Sr. No.221

Civil Writ Petition No.15634 of 2016
DECIDED ON: March 27, 2018

THAMBU RAM

..PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Vishal Gupta, Advocate,
for the petitioner.

Mr. Charanjit Singh Bakshi, Additional Advocate General,
Haryana.

JASPAL SINGH, J. (ORAL)

Through the instant civil writ petition, preferred under Articles 226/227 of the Constitution of India, petitioner has sought the issuance of a writ particularly in the nature of Mandamus directing the respondents to grant the benefit of promotion and other consequential benefits on the basis of merit list of Subordinate Service Selection Board for the post of Sub-Inspector in the Cooperation Department as has been granted to the similarly situated employees including Sh. Ram Singh Rao, who is junior to the petitioner.

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2. In response to the notice of motion issued by this Court vide order dated 04.08.2016, respondents have filed the written statement and paragraph No.8 contains the gist on the basis of which, respondents are disputing and denying the grant of the benefit which has already been granted to one of the juniors of the petitioner namely Sh. Ram Singh Rao. As per the contents of the aforesaid paragraph, it has been submitted by learned State counsel that the facts of the case of the petitioner and that of Sh.Ram Singh Rao are entirely different. Infact, petitioner had passed the departmental training test in 1966 and his seniority was determined on the same day, whereas Sh. Ram Singh Rao had passed the departmental training test in 1961 and his seniority was accordingly fixed on the said date i.e. when he qualified the departmental training test.

3. Here it would be pertinent to mention that the passing of the departmental training test was a requirement of Punjab Cooperative Subordinate Services Rules, 1936 (for short '1936 Rules'). But as far as these rules are concerned, it has been observed in ***Regular Second Appeal No.1738 of 1991, captioned as The State of Haryana & anr. vs. Ram Singh Rao & ors. decided on May 25, 2010 (P-9)*** that the aforesaid 1936 Rules are not applicable. The said litigation was in between respondents- State of Haryana & ors. as well as Ram Singh Rao who was admittedly junior to the petitioner and some other similarly situated employees. Since, the aforesaid 1936 Rules are not applicable in the instant case, the contention put forth by the learned State counsel with regard to passing of the departmental training test in 1966 is immaterial and petitioner is entitled to the benefit on the basis of length of service. As per the merit list (P-2) the name of the petitioner figured at Sr. No.46 whereas, the name of Sh.Ram

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Singh Rao figured at Sr. No.82. Meaning thereby that Sh.Ram Singh Rao was junior to the petitioner. Since, he has already been granted the benefit which is being claimed through the instant petition by the petitioner, there is no reason to decline the same, rather on the basis of the doctrine of parity, the petitioner also deserves the said relief. The claim of the petitioner stands squarely covered by the judgment passed by this Court in ***Ram Singh Rao's case (Supra)*** and the benefit which has flown from the said judgment to Sh. Ram Singh Rao, who is junior to the petitioner, petitioner also deserves the said benefit.

4. Thus, instant petition is allowed absolutely in terms of the ***Ram Singh Rao's case (supra)***. The respondents are directed to calculate the benefits and make an endeavour to make the payment thereof within a period of three months from the date of receipt of a certified copy of this order. On failure to comply with the aforesaid order/direction, petitioner shall be entitled to interest @ 9% p.a. from the date of filing of instant petition till actual payment.

March 27, 2018

Ankur

**(JASPAL SINGH)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes
Yes/No**