

**CWP No.20969 of 2016  
DECIDED ON: APRIL 18, 2018**

**MADAN LAL SETHI**

**.....PETITIONER**

**VERSUS**

**STATE OF HARYANA & ORS**

**.....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE JASPAL SINGH**

Present: Mr. Abhishek Sethi, Advocate  
for the petitioner.

Mr. RKS Brar, Addl. AG, Haryana.

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**JASPAL SINGH, J (ORAL)**

By virtue of instant petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought a writ in the nature of certiorari for quashing/setting aside the order dated 26.07.2016 (P-4) whereby the objections filed by him to the tentative seniority list of clerks in the office of Deputy Commissioner have been ordered to be filed with further direction for issuance of a writ in the nature of mandamus directing the respondents to finalize the tentative seniority list of clerks while considering the objections (P-3) filed by the petitioner and to grant him the benefit of due accelerated promotions to the posts of Assistant Superintendent and Superintendent along-with all consequential benefits.

2. Concededly, Raj Rani and Sheela Rani preferred CWP No. 6523 of 1999 challenging the final seniority list as well as reversion order dated 05.05.1999. The afore-said writ petition stood finally disposed of by this Court

on 29.07.2015 (P-2). At the initial stage the operation of order dated 05.05.1999 was stayed and the writ petition was admitted, which was ultimately taken up on 29.07.2015. The operative part of order dated 29.07.2015 reads as under:-

*“Learned counsel for the respondents had submitted that the petitioners as well as private respondents have superannuated and the petitioners had worked on the post they were working and had drawn salary, therefore, no cause of action survives in the present writ petition. There is also no representation on behalf of the petitioners, probably for the reason that the cause of action accrued in the year 1999 no longer survives.*

*Accordingly, the writ petition has become infructuous and the same is disposed of as such.*

*July 29, 2015*

*Sd/-  
(AMIT RAWAL)  
JUDGE*

3. Subsequent to the passing of afore-said order, petitioner was called upon by the respondents, if he has any objection with regard to the tentative seniority list of clerks dated 05.05.1999 and in pursuance thereof, he filed objections dated 10.02.2016 (P-3). Subsequent thereto, without considering the objections (P-3). The matter was filed and disposed of vide impugned order dated 26.07.2016 (P-4). The operative part of the order dated 26.07.2016 (P-4) reads as under:-

*“Therefore, the seniority list of the clerks be finalized while keeping in view the above-said decision/order. All the affected parties were granted opportunity of personal hearings and their objections were obtained in writing.*

*As per the above-said decision of the Hon'ble High Court, the petition was decided on the basis of the fact that the petitioners, private respondents and all the affected parties had superannuated from service coupled with the fact none of the parties had perused the petition. In view thereof, the petition was disposed off. While doing so, the Hon'ble High Court had observed in clear terms that the petitioners had received the pay of the post they had worked on. In the meanwhile, the petitioners, private respondents and all the affected parties have superannuated from service, due to this reason, there is no object in finalizing the tentative seniority list made in the year 1999 at this stage.*

*In the above-said situation, the representations moved by Sh. Sant Lal and Sh. Harpal Singh, Assistant Superintendent (Retd.), after due consideration are hereby being filed. The office is directed to prepare and present the tentative list of the clerks as on 01.07.2016. Both the parties as well as all the effected parties may be apprised of this order”*

*Dated:-26.07.2016*

*Sd/-  
Deputy Commissioner  
Panipat*

4. A glance at the afore-said paragraph transpires that the matter was not finalized by observing that all the affected parties have superannuated from service and on account of that reason there is no objection in the tentative seniority list of the clerks made in the year 1999 but the afore-said observations are not suffice to decline the relief claimed by the petitioner. It was only a tentative seniority list, which was challenged by the petitioners through CWP

No. 6523 of 1999 and it was still to be finalised. At the time of institution of the afore-said petition and issuance of notice of motion the proceedings were stayed. Meaning thereby, even the tentative seniority list could not take effect or finalized by the concerned authorities. Meaning thereby, that the said seniority list is still tentative and not finalized so far even after the disposal of afore-said writ petition. Thus, it was obligatory on the part of respondents particularly respondent No.4-Deputy Commissioner, Panipat who has taken a final and conscious decision with regard to the seniority list of clerks in the office of Deputy Commissioner, Panipat and as such, impugned order dated 26.07.2016 (P-4) is not sustainable in the eyes of law.

5. Accordingly, instant petition is allowed and impugned order dated 26.07.2016 (P-4) is quashed/set aside with further direction to respondent No.4 to reconsider the matter and the objections raised by the petitioner and to take a conscious and final decision with regard to the seniority list of the clerks of the office of Deputy Commissioner, Panipat within a period of three months from the date of receipt of certified copy of this order.

6. However, in case of non-compliance of afore-said direction petitioner shall be at liberty to have recourse to the other remedies available to him under law including to approach this Court.

**APRIL 18, 2018**  
**sham**

**(JASPAL SINGH)**  
**JUDGE**

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|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |