

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

**CWP No. 23131 of 2014 (O&M)
Date of decision : 27.11.2018**

**Kirpal Singh and others
Versus**

.....Petitioners

Food Corporation of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Rajbir Singh, Advocate
for the petitioners.

Ms. Jitender Jit Kaur, Advocate
for the respondents.

ARUN MONGA, J(ORAL)

Petitioner is seeking issuance of writ of certiorari for quashing the circulars Annexures P/3 to P/6 herein on various grounds as contended in his writ petition. However, at the time of arguments, learned counsel for the petitioner fairly pointed out that the said circulars were also subject matters of challenge before Delhi High Court and the same have since been upheld.

In view thereof, he does not press his relief of quashing of the said circulars. He however, contends that the second prayer in the writ petition is with regard to the seniority list which is not in consonance with the Circular No.7/2006 (Annexure P-3) wherein respondent–FCI had accepted the recommendation of one Saxena Committee and based thereon resolved to implement the said recommendations.

The relevant recommendation compliance whereof is being

sought herein is extracted hereinbelow:-

“(i) The depot-wise seniority of each category i.e. Handling labour Mondal and Sardar of the existing workers of the same depot may be framed and maintained for the purpose of promotion. The depot-wise seniority will be framed on the basis of date of induction/joining and the age of the labourers where the date of joining is the same. Since this will change the existing service condition of maintaining the gang-wise seniority earlier agreed vide clause 7 of the Memorandum of Settlement signed on 24.05.1984 between the FCI Management and FCI Workers' Union, a formal 'notice' of even number dated 23.02.2006 has been given by the FCI Management for 'termination of said clause 7 of the MOS dated 24.05.1984, as per the requirement under the provisions of Industrial Disputes Act, 1947”.

Learned counsel for the petitioner particularly placing reliance on recommendation (i) *ibid*, and points out that as per the seniority list (Annexure P-7) the petitioners have been shown at seniority Nos. 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 20 and 21 and yet their juniors who are born later than them and are junior in the seniority list have been promoted as Sardars and Mondals.

Per contra, learned counsel for the respondents contends that seniority list has been determined on the basis of the same very circulars and there is no infirmity in the same. She further contends that the said seniority list has been determined as per their date of joining read with their date of birth and already working as Mondals and Sardars even though they may be younger in age. A bare perusal of the seniority list read with Circular No.7/2006 and that of the seniority list of the promoted as labourers from

the seniority list (Annexure P-7) reflects that the petitioners No.4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 20 and 21 even though are shown senior in the seniority list yet their juniors seem to have been promoted without considering the case of the petitioners.

In this view of the matter, learned counsel for respondent fairly concedes that petitioners may make a representation in respect of the same to the FCI. The same shall then be considered and if they are found eligible to be promoted, an appropriate order thereof shall be passed.

In this view of the matter, respondent FCI is directed to treat the present petition as representation of the petitioners and pass a speaking order within a period of three months.

Writ petition is disposed of accordingly. No order as to cost.

(ARUN MONGA)
JUDGE

27.11.2018

dkp

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