

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

CWP No. 22416 of 2016

Date of decision : 26.07.2018

Sunita Gupta

..Petitioner

versus

Dept of Technical Education and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Abhinay Goel, Advocate, for the petitioner.

Mr. Gaurav Jindal, Addl. A.G. Haryana

RITU BAHRI, J.

In the present civil writ petition, the petitioner has sought quashing of gradation list dated 06.09.2016 (Annexure P-4) and further prayer is for issuance of direction to the respondent No. 1 to list the name of the petitioner on 2nd rank in the fresh gradation list on the basis of acquisition of qualification (i.e matriculation the year 1983) for the purpose of promotion from the post of Peon to Clerk.

Petitioner joined her service on 15.03.1995 as Lady Attendant/Peon (Class IV) on adhoc/temporary basis with the respondents and the service was regularized on 01.08.1997. On 16.07.2010 (P-2), respondent No. 1 issued the gradation list for the purpose of promotion from the post of Peon to Clerk in which the name of the petitioner was listed on 5th rank but no employee was promoted. A gradation list dated 03.05.2010 was again issued in which the name of the petitioner was listed at Sr. No. 17. Subsequently another gradation list was issued on 06.09.2016 in which the name of the petitioner was listed at Sr. No. 16. On 07.09.2016, the petitioner submitted objection letter to respondent No. 2, vide diary No. 818

dated 07.09.2016 but all in vain.

On notice, a reply has been filed on behalf of respondent Nos. 1 and 2 admitting the fact that the services of the petitioner was regularized on 01.08.1997 along with condition of probation of one year. As such, petitioner is entitled for her seniority in the concerned cadre from the date of conversion of her appointment into temporary/regular in the cadre. Therefore, the seniority of the petitioner has rightly been fixed w.e.f 01.08.1997 as mentioned in the tentative gradation list. No gradation list was issued on 16.07.2010 by respondent No. 1. It was a general letter written to the subordinate Institutes for the requirements of the same document and other relevant information about Group 'D' employees of the Polytechnics having qualification of Matriculation. But due to non-finalization of the seniority list, the promotion could not be made. The Gradation list issued vide memo dated 03.05.2016 was the tentative gradation list of matric and above qualified Group 'D' employees of the Government common cadre polytechnics, for the purpose of inviting the objections from concerned employees with the clear declaration of respondent No. 1 that there may be possibilities of mistakes in the Tentative Gradation List and the gradation list dated 03.05.2016 cannot be treated as final gradation list.

It has been submitted that the seniority of all members of Group 'D' service having qualification of matriculation and above, has been determined strictly as per provision of Haryana State Technical Education Department filed staff (Group D) service Rules, 1996, on the basis of length of their continuous service on any post in the service. Here in the length of

continuous service is to be counted from the date of appointment on regular basis in the service. No provision from the date of passing of their matriculation examination is available in the aforesaid statutory rules in existence for the service.

Meanwhile, Government of Haryana General Administrative Department in the office of Chief Secy to Government of Haryana has issued directions to the administrative Department of respondent No. 1 vide U.O dated 18.07.2016 (R-II) that the seniority of any employee will be fixed from the date of his joining in the cadre but not from the date of his passing matriculation examination. Thus, the tentative gradation list (R-III) of matric and above qualified class-IV employees of the Government combined cadre polytechnics was again prepared strictly as per directions vide Annexure R-II and provisions of aforesaid statutory Rules.

Accordingly, the tentative gradation list issued vide dated 06.09.2016 and approved gradation list as on 01.09.2016 (R-III) is legal and the petitioner has no right to claim seniority over and above the employees those who have passed their matriculation examination after joining the service in Group D cadre in the department of respondent No. 1.

Petitioner has not filed any replication to the reply filed by respondent No. 1 and 2

In view of the detail reply filed by the State, no ground is made out for quashing of gradation list dated 06.09.2016 (Annexure P-4).

The petition stands dismissed.

26.07.2018
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No