

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.23600 of 2018.

Date of Decision: September 17, 2018

Union of India and another

.....Petitioners

versus

Jatinder Pal and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.Vivek Chauhan, Advocate, for the petitioners.

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Surya Kant, J. (Oral)

Union of India has preferred this writ petition laying challenge to the order dated 30.01.2017 (P-1) passed by Central Administrative Tribunal, Chandigarh Bench whereby seniority list of Junior Engineers (Civil) dated 08.06.2011, circulated on 04.07.2011, to the extent of altering the seniority position of private-respondents, has been quashed with a direction that their earlier seniority status be restored.

[2] The facts are not in dispute. The private-respondents were appointed on erstwhile posts of Superintendents (B&R) Grade-II on 29.05.1983 after having been selected through an open competition for direct recruitment. Regardless of their placement in merit list, it appears that appointment letters were issued randomly and as a result thereof, some candidates lower in merit joined earlier than the private-respondents, i.e., before 07.05.1988. The seniority was sought to be fixed on the basis of dates of joining, hence the private-respondents agitated the matter and claimed that *inter-se* seniority of direct recruits be fixed on the basis of merit in the selection list. As the department did not acceded to their

request, they approached Central Administrative Tribunal by way of OA No.734/HR of 2002 which was allowed with the direction as contained in the order dated 07.08.2002. The said order was given effect and the private-respondents were assigned seniority as per their merit in the selection list.

[3] It further appears that some other employees also filed OA before the Central Administrative Tribunal and in compliance to the purported directions issued therein, the seniority position of private-respondents was also adversely altered. In other words, they were again assigned seniority on the basis of date of joining instead of their placement in the merit list of direct recruitment. This action has been annulled by the Tribunal qua the private-respondents vide impugned order.

[4] Having heard learned counsel for the petitioners, we do not find any ground to interfere with the impugned order. We say so for the reasons that firstly, it is well settled that seniority of direct recruits of same batch has to be determined on the basis of their *inter-se* merit in the selection list, unless the Rules provide otherwise. No such provision of rules has been referred to by the petitioners. Secondly, it is illogical to assign the seniority on the basis of date of joining amongst the direct recruits. A candidate at number-1 in the merit list can be posted at a far away place where he can reach after 2/3 days, whereas a candidate lower in merit can be posted to the nearest place. In this way, the later candidate will obviously join earlier than the candidate higher in merit. Thirdly, the seniority position of private-respondents has been decided by the Tribunal and the principle of res-judicata is fully attracted to the facts and circumstances of the case. Fourthly, the writ petition suffers from delay and laches as the order passed in January 2017 is sought to be challenged after 1½ years. Be that as it may,

since we do not find any ground on merits, the writ petition stands dismissed as such.

[SURYA KANT]
JUDGE

September 17, 2018
mohinder

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No