

Sr. No. 2487

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

CWP No.13678 of 2010 (O&M)

Date of Decision: 28.05.2019

Sanjay Kumar Rana and others

... Petitioners

Versus

Municipal Corporation Chandigarh and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Gurpreet Singh Dhillon, Advocate,
for the petitioners.

Ms. Nimrata Shergill, Advocate,
for respondent No.2-U.T., Chandigarh.

Mr. Ashish Rawal, Advocate,
for respondent No.1-MC, Chandigarh.

Mr. Narender Singh, Advocate
for respondents No.5 to 15.

ARUN MONGA, J.(ORAL)

Impugned herein, *inter alia*, is a public notice dated 09.07.2010 (Annexure P-6) as modified vide order dated 09.07.2010 (Annexure P-7), published by Engineering Department of Chandigarh Administration, in respect of option for transfer given to the employees (Clerks/Junior Assistants) of U.T. Chandigarh Administration to Municipal Corporation, Chandigarh.

2. In the background of this cantankerous litigation, on an earlier occasion, when a similar exercise was contemplated by the Chandigarh Administration, some of the employees had approached Central Administrative Tribunal who vide its detailed

judgment/order dated 24.02.2006 laid down certain parameters for carrying out such exercise. The said judgment of the Central Administrative Tribunal has since attained finality and pursuant thereto, the Chandigarh Administration invited the options of the employees and only 8 persons exercised their options and were, accordingly, transferred to Municipal Corporation, Chandigarh by way of Notification dated 9/10.10.2006 (Annexure P-2).

3. It is thus a conceded position that 6-8 employees have become permanent cadre employees of the Municipal Corporation, Chandigarh. Notwithstanding, the petitioners being fearful that the proposed exercise, contemplated vide impugned Notice dated 09.07.2010 (Annexure P-6), would adversely affect their seniority, have filed the present writ petition assailing the said Notice.

4. This Court vide order dated 04.08.2010, though permitted the respondents to receive the options from the employees but directed that no final order shall be passed regarding their adjustment in the Municipal Corporation, Chandigarh. Owing to this, the entire exercise carried out by the respondents has been on hold resulting in a lot of hardship to those who would have otherwise been promoted, over the passage of time owing to their seniority.

5. Having gone through the pleadings and having heard learned counsel for the parties at some length, I am of the view that as long as the petitioners' seniority is not affected, the challenge to the impugned Notice dated 09.07.2010 (Annexure P-6) completely loses significance, as the petitioners would not be adversely affected by the outcome of the contemplated exercise of seeking options.

6. In the premise, interim stay granted by this Court vide order dated 04.08.2010 is vacated and the writ petition is disposed of with directions to the respondents to proceed with the contemplated exercise as envisaged in Notice dated 09.07.2010 (Annexure P-6) as modified vide order dated 09.07.2010 (Annexure P-7).

7. It is, however, made clear that seniority of the petitioners and of the employees whose transfer was notified vide Notification dated 09/10.10.2006 and who have since become permanent employees of the cadre of the Municipal Corporation, Chandigarh, shall not be adversely affected by the respondents while giving effect to the Notice dated 09.07.2010 (Annexure P-6).

8. It is also made clear that the seniority list to be prepared by the respondents pursuant to the exercise under Notice dated 09.07.2010 (Annexure P-6) shall not be given effect without inviting and considering objections by the concerned employees. The tentative seniority list shall be put on the website of the Municipal Corporation and will be finalized after giving at least 2 months, for objections.

9. Let the needful be done within a period of 03 months from the date of receipt of a certified copy of this order.

10. Writ petition is disposed of in above terms.

(ARUN MONGA)
JUDGE

28.05.2019
vandana

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No