

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

CWP No. 28510 of 2017

Date of decision :15.02.2019

Vinod Kumar

....Petitioner

V/s

State of Punjab & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Madhav Pokhrel, Advocate for the petitioner.

Mr. Nikhil Chopra, Addl. A.G. Punjab.

RAJAN GUPTA J.

Petitioner has impugned the order dated 30.06.2016 (Annexure P-5) whereby seniority list of Deputy Mass Media and Information officer was modified and respondent no. 3, who was granted promotion retrospectively, was moved up in the seniority list making the petitioner junior to him. It has been contended before the court that respondent no. 3 in an arbitrary manner has been given promotion on notional basis which was against the statutory Rules of Punjab Health and Family Welfare Technical (Group C) Services Rules, 2007. He did not even fulfill the condition of five years experience as Block Extension Educatory which was mandatory for promotion as per Rules. Learned State counsel has referred to reply filed by way of Dr. Naresh Kumar, Director Health Services (Family Welfare), Punjab. Operative part thereof reads as under:-

“The respondent no. 3 was already working as Multipurpose Worker (Male) at Primary health Centre, Kalomajra District Patiala. He collected new appointment letter on 04.03.2008 from the office of answering respondent and he joined at new

place of posting at Primary Health Centre Mandbhandar in District Hoshiarpur on 08.03.2008. Respondent no. 2 issued tentative seniority list dated 31.03.2011 of the Block Extension Educator, in which the name of Respondent No. 3 was at serial No. 22 and the name of the Petitioner was at serial No. 24 as per the merit list provided by the Subordinate Services Selection Board, Punjab, Chandigarh i.e. as per the provisions contained in the "Punjab Health and Family Technical (Group 'C') Service Rules, 2007." The Respondent No. 2 promoted Respondent No. 3 to the post of Deputy Mass Media Education and Information Officer vide Office Order No. E10(1)Pb-2013/498 dated 18.04.2013 as per Seniority list of Block Extension Educators. Respondent No. 3 submitted a representation about seniority on the post of Deputy Mass Media and Education Information Officer and for the grant of promotion from back date. The office of answering respondent after careful consideration rectified his seniority number and he was promoted w.e.f. 28.02.2013 on the post of Deputy Mass Media and Education Officer from back date when his juniors were promoted as per merit list received from the SSS Board Punjab and issued order vide Officer Order No.E10(1)Pb-2016/2137 Dated 30-06-2016."

It appears that both the petitioner and respondent no. 3 were issued appointment letters on 03.12.2007 to the post of Block Extension Educator. The name of respondent no. 3 was at serial no. 8 and that of petitioner was at serial no. 10 in the merit list. However, appointment letter of respondent no. 3 had been wrongly sent to some other place in district Hoshiarpur. He collected the new appointment letter on 04.03.2008 from the department. Thereafter, tentative seniority list of the post of Deputy Mass Media and Information Officer was finalized in which petitioner was at serial no. 13 and respondent no. 3 at serial no. 19. Consequent upon the

and promoted respondent no. 3 from the date when his juniors were promoted. The seniority of an employee has to be determined from the date of his first appointment in the service. Accordingly, seniority of respondent no. 3 in the cadre of Deputy Mass Media and Information Officer has to be considered from the said date.

In view of above, there is no merit in the petition. Same is hereby dismissed.

February 15, 2019

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No

In the present case respondent no. 3 was issued appointment letter on the same day as the petitioner. He worked on the that post uninterruptedly till he was promoted to the next higher post alongwith petitioner.

The seniority of an employee has to be determined by the date of the order of the first appointment in the service unless he has been reduced to lower rank as punishment or any portion of his service would not be counted towards probation. Admittedly, the appellant was never reduced to the lower rank. It was neither pleaded nor any records were placed to show that any portion of the service of the appellant could not be counted towards probation