

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

2157

Civil Writ Petition No.7130 of 2006 (O&M)

Date of Decision: January 30th, 2020

Bhupinder Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. K.S. Dadwal, Advocate
for the petitioners.

Ms. Anju Sharma Kaushik, Deputy Advocate General, Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court with a grievance that despite the judgment passed by this Court in *CWP No.7962 of 2002* titled as *Jaswant Singh and others Versus The State of Punjab and another*, decided on 04.03.2003 (Annexure A-1) as also CWP No.10187 of 2002 which was also decided along with the said writ petition, petitioners have not been granted the consequential benefits from the date persons lower in merit than the petitioners were appointed on the post of Junior Draftsman.

2. Counsel for the petitioners asserts that the persons junior to the petitioners were appointed on 27.12.2001 and January 2002, whereas the petitioners were issued the appointment letter on 21.08.2003 on filing COCP Nos.546 and 586 of 2003. He contends that the factum of petitioners being higher in merit to the alleged persons, who were lower in merit, is not in dispute, however, the petitioners have not been granted the benefit, which they are entitled to and with regard to which an observation has been made by the Division Bench while passing the order dated 04.03.2003. He now contends that as liberty was granted by the Contempt Court to avail of the

remedy of other nature, which was not provided by the respondents on issuing the appointment letter, they have filed the present writ petition, where the facts as narrated in the writ petition vis-a-vis the persons, who were junior to them, having been admitted, petitioners would be entitled to the benefit of consequential relief.

3. Learned counsel for the respondents-State, on the other hand, contends that the petitioners are not entitled to the grant of benefit, which they are claiming as they had not worked on the said post. She contends that from the date they have performed their duties on their appointment, they are being paid the benefits. She, however, could not dispute the fact that persons, who were lower in merit than the petitioners, stood appointed prior to the appointment of the petitioners. Prayer has thus been made for dismissal of the writ petition.

4. I have considered the submissions made by counsel for the parties and with their assistance, have gone through the records of the case.

5. The facts as have emerged on the basis of the pleadings and which are not in dispute are that the petitioners, in pursuance to Advertisement No.3 of 1997/1 of 1998, applied for the post of Junior Draftsman (Civil). Names of the petitioners figured in the merit list, which was prepared by the Subordinate Service Selection Board. Persons whose names figured lower in merit were issued the appointment letters, whereas the petitioners were not so issued, forcing them to approach this Court by filing writ petition, which was disposed of by this Court vide judgment dated 04.03.2003 on the statement made

by the counsel for the respondents. The operative part of the judgment reads as follows:-

“To resolve the conflict in this petition, learned Additional Advocate General, Punjab, in all fairness, states that the respondents would examine the matter once over again and if any person junior to the petitioners has since been appointed, the petitioners shall be appointed on the post on which they have been selected. This statement has been accepted by the learned counsel representing the petitioners.

In view of the statement made by learned counsel, referred to above, we direct the official respondents herein to re-examine the matter within a period of 15 days from today and in case even one person lower in merit than the petitioners is found to have been appointed, the petitioners would be appointed to the post on which they are selected. In case, in this process of re-consideration, the petitioners are held entitled to be appointed and are given appointment, we are sanguine that the petitioners shall be given all consequential benefits, which were wrongly denied to them.

The writ petition is disposed of accordingly.

In view of the stand taken by learned Additional Advocate General, Punjab we do not impose any costs.”

6. Perusal of the above would show that respondents having accepted the said judgment and that too in the contempt petition, ultimately proceeded to issue the appointment letters to the petitioners on 21.08.2003. As regards the consequential benefits, the same although were not given in the contempt petition, which was preferred by the

petitioners, however, the Contempt Court granted liberty to the petitioners to avail of their remedy in accordance with law leading to the filing of the present writ petition, where the relief of consequential benefits from the date persons lower in merit have been appointed, stands claimed by the petitioners, being higher in merit in the merit list. Since the petitioners, who are better placed in the merit, had a prior right for appointment to the post of Junior Draftsman (Civil), they should have been the first persons to have been issued the appointment letters but because of the fault on the part of the respondents, the said benefit which they were entitled to of appointment, was denied to them by issuing appointment letters to the persons, who were lower in merit. No fault can be attributed to the petitioners, rather it would be a position where petitioners despite having a right to appointment to hold a particular post, were denied the same because of the wrongful action/inaction on the part of the respondents. They are, thus, entitled to all the consequential benefits from the date persons, who were lower in merit than the petitioners have been appointed.

7. In view of the above, the present writ petition is allowed.

8. Petitioners are held entitled to all consequential benefits from the date persons lower in merit than the petitioners have been appointed.

9. The consequential benefits including financial should be released to the petitioners treating them to have been appointed from the date their juniors were appointed, within a period of two months from today.

10. In the light of the decision of the writ petition,
CM No.8015 of 2018 is disposed of as infructuous.

January 30th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No