

275 (2 cases)

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

Reserved on :22.09.2022

Pronounced on :17.11.2022

1) CWP No.3428 of 2020 (O&M)

Dharam Singh Yadav ...Petitioner

Versus

State of Haryana and others ...Respondents

2) CWP No.7473 of 2021 (O&M)

Dharam Singh Yadav ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. B.S. Patwalia, Advocate
for the petitioner (CWP-3428-2020).

Mr. Amit Jhanji, Sr. Advocate with
Mr. Abhishek K. Premi, Advocate
for the petitioner (CWP-7473-2021).

Mr. Gurminder Singh, Sr. Advocate with
Mr. J.S. Gill, Advocate
for respondent No.4.

Mr. Hitesh Pandit, Additional A.G., Haryana.

ARUN MONGA, J.

Vide this common order and judgment above titled, two Writ
Petitions are being decided, since the facts involved therein are common
and even the fate of the issues to be adjudicated is inter-connected and the

outcome of the former involving claim for promotion would necessarily govern the latter qua determination of seniority. For convenience, facts/recitals are being taken from the latter of the two writ petitions i.e., CWP No.7473 of 2021 (O&M), since it also covers the developments post filing of the first petition.

2. In CWP No.3428 of 2020, the petitioner, currently serving as Joint Director in the Horticulture Department, *inter alia*, seeks to restrain the official Respondents from making promotions to the post of Additional Director before issuing final seniority list of Class-I and Class-II posts. In the subsequent petition bearing CWP No.7473 of 2021, he *inter alia* seeks quashing of tentative seniority list dated 11.01.2017 which has been treated as final vide impugned office letter dated 15.02.2021 (Annexure P-30), wherein the respondent No.4 has been shown as senior to the petitioner. He further seeks quashing of report of the Committee constituted to decide the objections against the tentative seniority list (Annexure P-29).

3. Factual narrative first.

3.1. Sometime in the year 1990, the Department of Horticulture was carved out from the Agriculture Department and was given separate identity as an independent department. Since the Department of Horticulture consists of various posts categorized in Group A, B & C, separate rules have been framed governing the recruitment/promotions for separate categories. More of it later.

3.2. Respondent No.4, with whom the petitioner is competing for the post in question i.e., the Additional Director, Horticulture, was appointed as Horticulture Development Officer (HDO), Group C (Class III) in Scheduled Caste category on 07.05.1992 by way of direct

recruitment. Subsequently, he was promoted as Technical Assistant, Group C (Class III) on 12.11.1997 against a reserved post meant for Scheduled Caste category. Vide promotion order dated 22.11.1999 (Annexure P-10), six persons were promoted to the post of District Horticulture Officer. Out of them, one Ram Pal Mithan was then working as HDO and was junior to respondent No. 4 in the feeder cadre of HDOs.

3.3. The claim of respondent No. 4 for promotion was rejected vide office order dated 06.02.2001 (Annexure R-4/6) on the ground that he did not fulfil the requisite experience either as Technical Assistant or as Horticulture Development Officer and in any case the seniority of respondent No.4 had yet not been finalized in accordance with the Supreme Court judgment in Ajit Singh II's case. This was done despite his objection that his junior, Ram Pal Mithan was promoted.

3.4. Aggrieved, respondent No.4 approached this Court vide CWP No.4151 of 2001 and the said writ petition was admitted for final adjudication. Subsequently, he made another representation dated 12.01.2007, claiming that he being senior to one Satpal Aggarwal, who too was promoted as HDO on 22.11.1999 (Annexure P-10), he was entitled to be promoted as per Eighty Fifth Amendment of the Constitution of India, 2001. The validity of the said amendment was upheld by the Supreme Court on 19.10.2006 vide judgment rendered in Writ Petition (Civil) No.61 of 2002 titled as *M. Nagaraj and others vs. Union of India, 2006(8) SCC 212*.

3.5. In this background, legal opinion of the then Learned Advocate General was also sought, and vide advice dated 16.10.2007, he opined that respondent No.4 was still not entitled for promotion, notwithstanding *M. Nagaraj's* case *ibid*. Reliance was placed on

administrative instructions dated 16.03.2006 and clarification thereof vide letter dated 27.12.2006 to contend, that since the promotions as well as the seniority in the present case had already been determined prior to 16.03.2006, therefore, respondent No.4 could not claim his promotion retrospectively w.e.f. 22.11.1999 i.e. the date when others were promoted. Subsequently, it appears that the competent authority in department had change of mind and on its own volition came to the conclusion that, rejection of the claim of respondent No.4 for promotion, on ground of his not having requisite experience to the post of District Horticulture Officer as on 22.11.1999, was erroneous and misplaced.

3.6 In the aforesaid premise, respondent No.4 filed an application bearing CM No.6203 of 2011 in the pending admitted writ petition bearing CWP No.4151 of 2001, seeking a direction to the department to reconsider his claim and pass appropriate orders. His writ petition was accordingly disposed of vide order dated 28.03.2012 (Annexure P-15) with direction to the State to reconsider his case. It was in this backdrop that a fresh order dated 21.09.2012 (Annexure P-16) was passed granting retrospective promotion to respondent No.4 on the post of District Horticulture Officer w.e.f. 24.11.1999, i.e. when his junior Ram Pal Mithan was promoted as DHO.

3.7. Respondent No.4, thus naturally became senior to the petitioner, who was appointed as District Horticulture Officer on 15.05.2003 by direct recruitment. Again respondent No.4 was given promotion to the post of Deputy Director, Horticulture with retrospective effect from 20.01.2012 i.e., the date when others were accorded promotions on the same post.

3.8. The petitioner thus contends that the entire exercise of according retrospective promotion to respondent No. 4, first as DHO from 24.11.1999 (Annexure P-16) long after petitioner’s direct recruitment as DHO on 15.05.2003 and again as Deputy Director Horticulture retrospectively from 20.01.2012 vide order dated 10.12.2012 (Annexure P-17) is a complete hogwash and a colourable exercise of power. What requires adjudication thus is whether the promotion of respondent No.4 to the post of District Horticulture Officer (DHO) w.e.f. 24.11.1999 and his further promotion as Deputy Director Horticulture retrospectively from 20.01.2012 were rightly accorded/given.

3.9. As stated, the petitioner was appointed as District Horticulture Officer, Group B (Class-II) on 15.05.2003 through direct recruitment in General category. He though pleads that he is also physically handicapped, but never took any advantage of the said category. Subsequently, he was promoted to the post of Deputy Director on 09.11.2012, followed by another promotion as Joint Director w.e.f. 12.09.2014.

4. In this background, let us now examine the claim of the petitioner vis-à-vis that of respondent No.4. At this stage it would be apposite to have a look at the eligibility conditions, per applicable Rules, for direct recruitment as well as promotion on the posts in question which are categorized in different categories. For ready reference, the tabular charts of relevant extracts from the statutory rules are as below: -

The Haryana Horticulture (Group C) Service Rule, 1998

1.	Technical Assistant	--	by promotion- Five years experience as Horticulture Development Officer
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			by transfer or deputation – (i) Should be working as Technical Assistant or on any equivalent post, possessing the degree of B.Sc. Agriculture with Horticulture as one of the subjects, or B.Sc. Horticulture from any recognized University; and (ii) Knowledge of Hindi Upto Matric standard
2.	Horticulture Development Officer	(i) B.Sc. Agriculture (Hons) with Horticulture as one of the subjects or B.Sc. Horticulture, from any recognized University; and (ii) Knowledge of Hindi upto Matric standard	by promotion- (i) Five years experience as Horticulture Supervisor. (ii) B.Sc. Agriculture (Hons.) with Horticulture as one of the subjects, or B.Sc. Horticulture from any recognized University; and (iii) Knowledge of Hindi upto Matric standard. by transfer or deputation – (i) Should be working as Horticulture Dev. Officer or on any equivalent post, possessing degree of B.Sc. Agriculture with Horticulture as one of the subjects, or B.Sc. Horticulture from any recognized University; and (ii) Knowledge of Hindu Upto Matric standard.

The Haryana Horticulture (Group B) Service Rule, 1998

2.	District Horticulture Officer	(i) 2 nd Class M.Sc. Horticulture from a recognized University; (ii) Hindi upto Matric Standard; OR (i) B.Sc. Agriculture (Hons.) with Horticulture including Floriculture, Promiculture,	By promotion- Five years experience on the post of Technical Assistant or seven years experience as Horticulture Development Officer by transfer or deputation – (i) Two years experience as Superintendent, Horticulture, District Horticulture Officer, Fruit Specialist, Vegetable Specialist, Floriculturist or
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		Olericulture or Sericulture as one of the subject or B.Sc. Horticulture; (ii) Five Years practical experience in Horticulture Development Work. (iii) Hindi upto Matric Standard.	State Sericulture Officer; (ii) Hindi upto Matric Standard.
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The Haryana Horticulture (Group A) Service Rule, 1998

2.	Joint Director of Horticulture	--	i) Five years experience as Deputy Director or any other equivalent posts. ii) Knowledge of Hindi upto Matric Standard.
3.	Deputy Director of Horticulture	(a) 2 nd Class M.Sc. Horticulture from a recognized University; (b) Five years practical experience in horticulture research or extension or both, after acquiring the minimum basic qualification; and (c) Hindi upto Matric standard.	(i) Five years experience as District Horticulture Officer or Superintendent Horticulture, Pinjore and Kishanpura (Jind) or Vegetable Specialist or Floriculturist and State Sericulture Officer. (ii) Knowledge of Hindi upto Matric standard.

5. Group ‘A’ Rules, supra, were subsequently amended vide notification dated 28.07.2011, whereby for the first time the post of Additional Director was introduced as a promotional avenue which is the bone of contention herein. For ready reference, the extract of the amended Rule is reproduced herein:-

The Haryana Horticulture (Group A) Service (Amendment) Rules, 2011

1.	Director General	--	By promotion – (i) Ten years experience as Joint Director or ten years combined experience as Additional Director and Joint Director;
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			(ii) Hindi/Sanskrit upto Matric standard or higher education. By transfer- (a) for officers of State Government or Government of India- (i) M.Sc. (First Class) in Horticulture from recognized university or institution; (ii) Three years experience as Director (a) Faculty Member- (i) Professor of Horticulture/Floriculture of a recognized Agricultural University; (ii) Hindi/Sanskrit upto Matric standard or higher education.
1A.	Additional Director	--	(i) Five years experience as Joint Director or on any equivalent posts; (ii) Hindi upto Matric standard or higher education

6. Admittedly, the order dated 21.09.2012 (Annexure P-16) granted retrospective promotion to respondent No.4 on the post of District Horticulture Officer w.e.f. 24.11.1999 i.e., the date his junior Ram Pal Mithan, then working as Horticulture Development Officer was promoted as DHO. Vide another order dated 10.12.2012 (Annexure P-17), respondent No.4 was promoted as Deputy Director Horticulture retrospectively from 20.01.2012.

7. Under Rule 11 of the Haryana Horticulture (Group B) Service Rules-1998, seniority *inter-se* of members of the service is to be determined by the length of continuous service on any post in the service.

It was thus abundantly clear to the petitioner, when orders dated 21.09.2012 and 10.12.2012 were issued, that respondent No. 4 became

entitled to seniority from 24.11.1999 on the post of District Horticulture Officer and, also seniority from 20.01.2012 as Deputy Director on the basis of length of his service on these respective posts. Till the filing of these two writ petitions herein (No. 3426/2020 and 7473/2021), petitioner did not challenge the aforesaid two orders. No explanation for this delay has been given in writ petition No. 3426/2020, the first of the two.

7.1. In para No.9 of the preliminary objections of the written statement of respondent No. 4, it was stated, *inter alia*, that the petitioner was aware of the passing of aforesaid orders. The same is also reflected from order dated 12.09.2014 (Annexure R-4/10), whereby respondent No. 4 and the petitioner, both were promoted as Joint Directors and respondent No. 4 was placed above the petitioner. In this regard, the petitioner has maintained complete silence in his replication to the written statement of respondent No. 4. This clearly shows that at least since 12.09.2014, if not earlier, the petitioner had knowledge of the orders dated 21.09.2012 (Annexure P-16) and 10.12.2012 (Annexure P-17) whereby respondent No. 4 was given promotion as District Horticulture Officer and Deputy Director respectively from retrospective dates.

7.2. In connected writ petition No. 3428/2020, petitioner has averred that litigation referred therein was already pending before this Court and, also the fact that the seniority of class I and class II posts had till then not been finalized. He, therefore, did not challenge the above-mentioned orders dated 21.09.2012 and 10.12.2012. This was done in view of the pendency of appeal bearing LPA No. 957 of 2016 filed by the Department and two other LPAs tagged/clubbed therewith as they all pertained to the issue of seniority of class I and class II officers of the Department.

7.3. It is neither shown on record nor even claimed by the petitioner that orders dated 21.09.2012 (Annexure P-16) and 10.12.2012 (Annexure P-17) for promotion of respondent No. 4 as District Horticulture Officer and Deputy Director, respectively from retrospective dates were the subject matter of challenge in the aforesaid pending litigation. In any case, this explanation is quite at variance with the one given in writ petition No. 7473/2021, as already narrated above. I am, therefore, not at all convinced with the explanation offered by the petitioner to justify the long delay on his part in challenging the aforementioned orders. The petitioner's long inaction shows his acquiescence thereto. In any case, to my mind, the petitioner is precluded at this belated stage from questioning the correctness and legality of these orders dated 21.09.2012 and 10.12.2012.

8. Furthermore, may be a technical view point though, but even in the present writ petitions (Nos. 3426/2020 and 7473/2021), the petitioner has not sought any relief for setting aside the aforesaid orders. His attempts to point fingers at and find fault with administrative orders, without seeking to set them aside is a mere shadowboxing, to say the least. It does not, therefore, seem necessary for the Court to go into the merits of and adjudicate upon the petitioner's contentions against the legality and correctness of these orders. Nonetheless, to avoid prejudice, his contentions to the contrary are being taken up and dealt with hereunder.

9. It has been contended that, firstly, at the relevant time, respondent No. 4 did not have either the prescribed 7 years experience as Horticulture Development Officer or 5 years experience as Technical Assistant, and thus, was ineligible for promotion as District Horticulture

Officer. The Ld. Advocate General, Haryana and Legal Remembrancer to the State Government also took cognizance of this fact and advised that respondent No.4 was indeed ineligible. The official respondents had therefore not found him fit for promotion. Later, however, by taking an about turn, the official respondents promoted respondent No. 4 as District Horticulture Officer, and that too retrospectively. Further, the official respondents have also taken a similar stand in reply to the writ petition filed by respondent No. 4.

10. I am unable to accept the contention that respondent No. 4 did not fulfil the requirement of experience for promotion as District Horticulture Officer from 22.11.1999. Admittedly, he was appointed as Horticulture Development Officer on 07.05.1992 and promoted as Technical Assistant from 12.11.1997. Vide order dated 21.09.2012 (Annexure P-16) he was retrospectively promoted as District Horticulture Officer w.e.f. 24.11.1999. But for promotion as Technical Assistant from 12.11.1997, he would have continued to work as Horticulture Development Officer and would have attained the prescribed 7 years experience as such on 24.11.1999 for promotion as District Horticulture Officer. He could not be left worse than that by promotion as Technical Assistant.

10.1. In my opinion, the nature of experience on the promotional post of Technical Assistant and on the lower post of Horticulture Development Officer in the feeder cadre was in the same line and common field. The experience gained by respondent No. 4 on the promotional post would in any case be of a higher level and not less than the level of his experience on the lower post of Horticulture Development Officer. It was, therefore, quite logical, rational, reasonable, just, and fair

to add the petitioner's experience on the promotional post of Technical Assistant to his experience on the lower post of Horticulture Development Officer for determining his eligibility for promotion as District Horticulture Officer. Since the length of combined experience of respondent No. 4 on these two posts was admittedly more than seven years, it made him eligible at the relevant time for promotion as District Horticulture Officer.

11. Obviously, the official respondents had initially taken an erroneous view of the matter and found that respondent No. 4 was not eligible for promotion as at the relevant time he did not have the required experience for respective posts and had also projected the same stand in answer to the writ petition filed by respondent No. 4. This did not prevent the official respondents from correcting their earlier mistake of depriving respondent No. 4 of the legal entitlement to addition of his experience on the promotional post of Technical Assistant to his experience on the lower post of Horticulture Development Officer, for determining his eligibility for promotion as District Horticulture Officer from 24.11.1999. To my mind, the official respondents only corrected their initial mistake by adding the petitioner's experience on the promotional post of Technical Assistant to his experience on the lower post of Horticulture Development Officer for determining his eligibility for promotion as District Horticulture Officer. No exception can, therefore, be taken to the same.

12. Secondly, it was contended by learned counsel for the petitioner that at the relevant time, no post of District Horticulture Officer was available against the promotional quota and yet respondent No. 4 was given promotion to the said post. To my mind, this contention too is without any substance. The petitioner has asserted that when the order

dated 22.11.1999 (Annexure P-10) was passed, promoting five Technical Assistants and one Horticulture Development Officer as District Horticulture Officers (including Ram Pal Mithan), the total cadre strength of DHOs was 29 posts. Out of them, 20 posts were meant for promotional quota and 9 were for direct recruitment. According to him, 18 out of the 20 promotional quota posts were already filled/occupied by promotees and that the incumbents promoted vide order dated 22.11.1999 were promoted beyond the sanctioned quota meant for promotees and their promotions were against the quota of direct recruits.

12.1. The petitioner's own assertions are self-contradictory. On one hand, he says that 18 out of the 20 promotional quota posts were already filled/occupied by promotes, meaning thereby, that at least two more posts of promotional quota were still available at the relevant time. In the same breath, he claims that the promotion of all six persons as District Horticulture Officers vide order dated 22.11.1999 (Annexure P-10) was beyond the quota of 20 promotional posts.

13. Report of the Seniority Committee (Annexure P-29) shows *inter alia* that vide letter dated 08.10.1999 the Director General, Horticulture sent a panel of 7 candidates with the proposal to the Government for filling up 7 posts of DHOs by *ad hoc* promotion— 3 posts of promotion quota and 4 posts of direct recruitment quota. In that panel, respondent No. 4 Ranbir Singh was senior most and subsequently his name was recommended for promotion against the available promotional quota post, whereas the candidates at serial No. 4 onwards were promoted against the direct recruitment quota posts. It means that before petitioner's direct recruitment as DHO on 15.05.2003, two more candidates junior to respondent No. 4 were also promoted as DHOs

against the then-available promotion quota posts. The Committee, therefore, observed that the claim of the petitioner for reverting Ranbir Singh (respondent No.4) and for placing the petitioner above him in the seniority list of DHOs was not tenable.

14. In this connection, the stand of official respondents is that Ram Pal Mithan, junior to the petitioner, had also been promoted as District Horticulture Officer vide order dated 22.11.1999 (Annexure P-10), even though he (Ram Pal Mithan) had not caught up with respondent No. 4 as Technical Assistant. As such, the Department passed order dated 21.09.2012 (Annexure P-16) promoting respondent No. 4 also as District Horticulture Officer with effect from the date of promotion of his junior Ram Pal Mithan. Vide order dated 10.12.2012 (Annexure P-17) respondent No.4 was further promoted as Deputy Director w.e.f. 20.01.2012 i.e., the date from which another junior Rajbir Singh was promoted as Deputy Director.

15. In my opinion, respondent No. 4 was entitled to these promotions from the dates his aforesaid juniors had been promoted. There seems no illegality in order dated 21.09.2012 (Annexure P-16) promoting respondent No. 4 as District Horticulture Officer with effect from 24.11.1999, i.e., the date of promotion of his junior Ram Pal Mithan. Similarly, there seems nothing illegal in order dated 10.12.2012 (Annexure P-17) promoting respondent No. 4 as Deputy Director with effect from 20.01.2012, i.e., the date on which his other junior Rajbir Singh was promoted as such.

16. It is also pertinent here to refer to Rule 9(3) of the Haryana Horticulture (Group B) Service Rules, 1998. It provides that as and when any vacancy occurs or is about to occur, unless otherwise provided, the

appointing authority shall determine the method (promotion, direct recruitment, or transfer) by which the same shall be filled. It seems thus that if the circumstances so warrant, the appointing authority while determining so, can also resort to some deviation from the prescribed quota for promotion or direct recruitment. In any case, therefore, the promotion of respondent No. 4 as District Horticulture Officer with effect from 24.11.1999 cannot be termed illegal on the ground that the same was in excess of the quota of promotional posts.

17. In LPA No. 957 (O&M) of 2016 an order dated 28.02.2017 (Annexure R-4/13) was passed by a Division Bench of this Court directing that an impartial committee of officers having no conflict of interest with the respondent department be set up to decide on objections received against the circulated tentative seniority list. The decision of the Committee was to be then independently examined by the State Government before finalization of seniority. Accordingly, the Government issued an order dated 18.08.2017 (Annexure R-4/14) constituting a Committee of four officers (hereafter described as the Seniority Committee).

17.1. The petitioner, vide letter dated 18.06.2018 (Annexure P-24) filed his objections against the tentative seniority list. After considering his objections and also hearing the petitioner, the Seniority Committee submitted its impugned report contained at Annexure P-29, of which the relevant part pertaining to the petitioner is as under:

Sr. No.	Name of Officer & his representation dated	Objections raised	Grounds of objections	Recommendations of the Committee
3.	Dharam Singh Yadav, Joint Director Horticulture (Head	Promotion of Sh.Ranbir Singh on the post of District	Sh. Ranbir Singh was appointed as Horticulture Development	The committee considered the matter at length and observed that:-

	Quarter) (C/6) dated 25.01.2017, 23.08.2017 and 18.06.2018	Horticulture Officer w.e.f. 24.11.1999 is invalid, hence, he may be reverted back as Tehnical Assistant (TA). Consequently, his (Dharam Singh Yadav) seniority as District Horticulture Officer (DHO) may be re-fixed below Sh. Atar Singh Sangwan and above Sh. Amar Singh who was promoted against direct quota post. Consequently, in the seniority of Class-I his seniority may be fixed after Sh. Atar Singh Sangwan and before Sh. Bharat Bhushan who was promoted as Class-II against direct quota.	Officer (HDO) on 07.05.1992 under SC category. He was promoted as Technical Assistant (TA) on 12.11.1997 against Roster point of SC. While considering his case for promotion as District Horticulture Officer in 1999 he was found ineligible due to lack of experience and ignored. Later on he filed CWP 4151 of 2001 and Misc. No.6203 of 2011 which was decided on 28.03.2012 directing the department to decide his representation. The department on the advice of Chief Secretary counted the joint experience of Horticulture Development Officer (HDO) and Technical Assistant (TA) and promoted him District Horticulture Officer Class-II w.e.f. 24.11.1999. The advice of Chief Secretary is contradictory to rules and advice of LR Haryana. He has been given accelerated seniority and promotion which is against Supreme Court judgment in Sh. Ajit Singh II case. Moreover, the promotion have been made against direct quota post. Therefore, his promotion is invalid and consequently he may be placed above Sh. Ranbir Singh and Sh. Amar Singh in the Seniority of Class-II.	1. The applicant is challenging the seniority as per roster point given to Sh. Ranbir Singh on the post of Technical Assistant (TA) as Class-III. The issue of seniority of Class-III employee is not covered in the mandate of this committee. Therefore, it is presumed that his promotion as Technical Assistant (TA) and placing him at relevant roster point is correct. 2. He is challenging the promotion given to Sh. Ranbir Singh as District Horticulture Officer (DHO) on the advice of Chief Secretary issued vide U.O. No.22/1/2000-1GS-III, dated dated 29.08.2012, which is also not covered in the mandate of this committee. 3.As per office record provided to the Committee the Director General Horticulture vide its letter dated 08.10.1999 sent the proposal to the Govt. for filling up the 7 post of D.H.O. (Class-II) that is 3 post of promotion quota and 4 posts of direct quota (by adhoc promotion). A panel of following was sent. <table><tr><th>Sr N o</th><th>Seni ority No.</th><th>Name and Design ation</th></tr><tr><td>1</td><td>15A</td><td>Sh. Ranbir Singh, TA</td></tr><tr><td>2.</td><td>16</td><td>Sh. SatpalA ggarwal TA</td></tr><tr><td>3.</td><td>17</td><td>Sh. Dharam vir Singh, TA</td></tr><tr><td>4.</td><td>18</td><td>Sh. Dharam Singh TA</td></tr></table>	Sr N o	Seni ority No.	Name and Design ation	1	15A	Sh. Ranbir Singh, TA	2.	16	Sh. SatpalA ggarwal TA	3.	17	Sh. Dharam vir Singh, TA	4.	18	Sh. Dharam Singh TA
Sr N o	Seni ority No.	Name and Design ation																	
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				<table><tr><td>5</td><td>19</td><td>Sh. Laxmi Naryan Sharma , TA</td></tr><tr><td>6</td><td>20</td><td>Sh. P.C.Sharma TA</td></tr><tr><td>7</td><td>21</td><td>Sh. Ram Pal Mithan, HDO</td></tr><tr><td>8</td><td>22</td><td>Sh. Rajbir Singh, HDO</td></tr><tr><td>9</td><td>23</td><td>Sh. Nafe Singh, HDO</td></tr></table>	5	19	Sh. Laxmi Naryan Sharma , TA	6	20	Sh. P.C.Sharma TA	7	21	Sh. Ram Pal Mithan, HDO	8	22	Sh. Rajbir Singh, HDO	9	23	Sh. Nafe Singh, HDO
5	19	Sh. Laxmi Naryan Sharma , TA																	
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7	21	Sh. Ram Pal Mithan, HDO																	
8	22	Sh. Rajbir Singh, HDO																	
9	23	Sh. Nafe Singh, HDO																	
				From perusal of above table it is clear that Sh. Ranbir Singh was senior most in the panel besides his name was recommended against the promotion quota available. So it is wrong that Sh. Ranbir Singh was promoted against the direct quota post. In fact Sr. No.4 Seniority No.18 onwards were promoted against direct quota post. Therefore, the claim of Sh. Dharam Singh Yadav for reverting Sh. Ranbir Singh and place him above Sh. Ranbir Singh in the seniority of District Horticulture Officer (DHO) Class-II, is not tenable. Further, his for placing him above Sh. Amar Singh who was promoted as District Horticulture Officer (DHO) (Class-II) on 29.10.1997. Though, he was promoted against direct quota post but he was subsequently adjusted against the vacancy occurred due to retirement of Sh. Satpal Singh Rana on 31.01.1998 (Promotee Class-II). Sh. Dharam Singh Yadav was appointed as Direct															

				recruit District Horticulture Officer Class-II on 27.05.2003, whereas, Sh. Amar Singh was promote of 1997 and his promotion was already regularized against the promotion quota post occurred due to retirement of Sh. Satpal Singh Rana on 31.01.1998 much before the appointment of Sh. Dharam Singh Yadav. Hence, his claim for Seniority above Sh. Amar Singh in Class-II is not not found tenable.
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18. There is nothing wrong or illegal in the view taken by the Seniority Committee in its impugned report contained at Annexure P-29, *qua* the petitioner’s objections against the tentative seniority list. The contention to the contrary is, therefore, rejected.

19. After considering the said report of the Seniority Committee, the competent authority issued order dated 15.02.2021 treating the tentative seniority list issued on 11.01.2017 (Annexure P-30) as final. In the said seniority list of class II officers, respondent No. 4 Ranbir Singh was placed at serial No. 38 while the petitioner was put at serial No.47. In the seniority list of class I officers, respondent No. 4 Ranbir Singh was assigned serial No. 27 while the petitioner’s placement was at serial No.32. In my opinion, the seniority of respondent No. 4 was rightly determined above that of the petitioner in both the seniority lists.

20. As a result of the above discussion, there is no merit in CWP No.7473 of 2021, as also in the connected writ petition No. 3428 of 2020. Accordingly, both these petitions are dismissed.

21. Pending civil miscellaneous application, if any, also stands disposed of.

November 17, 2022
ashish

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No