

**620/2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.7690 of 2000 (O&M)

Date of decision: 23.05.2022

Kanhya Lal and others

...Petitioners

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Nitish Sharma, Advocate, for the petitioners.

Mr. R.D.Sharma, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petitioners herein, *inter alia*, seeks issuance of a writ in the nature of certiorari for quashing impugned order dated 4/12.01.2000 passed by respondent No.3 (Annexure P-5), whereby respondent No.3 assigned the seniority to private-respondents over and above the petitioners.

2. Petition was admitted for hearing on 15.10.2001. When taken up for adjudication, learned counsel for petitioners is unable to assist the Court for lack of instructions. Learned counsel for the petitioners states that despite attempts, his office could not contact the petitioners. In the premise, issuing fresh notice to the petitioners on their address as per memo parties would be equally futile.

3. It seems that by sheer effluxion of time and pendency of the writ petition for more than 21 years before this Court, either it has been rendered infructuous or even otherwise the petitioners seem to have lost interest in pursuing the same.

4. In any case, having perused the record/pleadings, it appears that even on merits, claim of the petitioners is not admissible. Reference may be had in particular to para No.1 of the preliminary objections of the

reply filed on behalf of respondents No.4 to 36 (in connected petition bearing CWP-4316-2000).

5. I am in agreement with the stand taken by the respondents as aforesaid. Neither any replication has been filed to the afore-noted stand of the respondents nor any additional affidavit of any kind to controvert the same.

6. Adverting to the merits of the case, it would be apposite to first have a look at the applicable Rule 9 of the Punjab Forest Subordinate Services (Executive Section) Rules, 1944, which is as below:-

- “9. Appointments to posts of Foresters shall be made as follows, that to say-*
- (3) to the First Grade or the Second Grade from among Foresters in the next lower grade:*
 - (4) to the Third Grade from among-*
 - (c) Persons who-*
 - (iii) Have passed the Matriculation of a recognized University and*
 - (iv) Have agreed to undertake after the expiry of one year's work in the Forest Department the course of training at the School in accordance with the regulations in Appendix 'D'.*
 - (d) Forest Guards, who have obtained a certificate of training from the School in accordance with the regulations in Appendix- 'D':*

Provided that the Chief Conservator, the Conservator or the Director, as the case may be, may appoint as Forester any Forest Guard or Darogha who has not obtained the certificate of training from the school.

PROVIDED FURTHER THAT THIRTY PER CENTUM OF THE TOTAL NUMBER OF POSTS OF FORESTERS SHALL BE FILLED BY THE APPOINTMENT OF PERSONS UNDER SUB-CLAUSE (A) OF CLAUSE (2) AND THE REMAINING SEVENTY PER CENTUM BY PROMOTION FROM AMONG FOREST GUARDS OR DAROGHAS.”

A perusal of the above Rule more particularly the proviso given therein leaves no manner of doubt that the Forestors are to be appointed as per the percentage given therein i.e. 70% by way of promotion and 30% by way of direct recruitment. In the case in hand pertaining to year 1980, from a total of 232 posts of Foresters as existing then, the promotional quota comes to 162 posts and the balance 70 posts fell in the share of direct recruits. However since only 35 direct recruits were available to be appointed against share of 70 posts, in order to mitigate the requirements of services, petitioners were promoted against the quota meant for the direct recruits. It was in this background, that in the promotion order dated 16.02.1982 (Annexure R-4/1) of one of the petitioner **(in connected petition bearing CWP-4316-2000)**, a subsequent condition was put that the petitioners were liable to be reverted as and when the direct recruits are appointed and/ order are available. In this scenario, there was nothing wrong on the part of the respondents to declare those persons/ petitioners as junior who had been promoted against the quota of direct recruits. In the premise, the impugned order which is under judicial review is upheld and does not warrant any interference.

7. In view of the aforesaid, no grounds are made out to interfere.

8. Dismissed.

23.05.2022
hemlata/mahavir

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No