

Sr.No.204

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

CWP No.5686 of 2017 (O&M)

Date of Decision: 07.12.2022

Manoj Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Harsh Mehla, Advocate
for the petitioner.

Mr. Saurabh Mohunta, D.A.G., Haryana.

Mr. Prateek Singh, Advocate
for Mr. Aman Arora, Advocate
for respondent No.4.

ARUN MONGA, J.(ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing orders dated 19.08.2014 (Annexure P-1), 06.10.2015 (Annexure P-2), 30.08.2016 (Annexure P-3) and final seniority list dated 26.06.2015 (Annexure P-4).

2. Succinct facts first. Petitioner was appointed as Clerk in the office of Sub Divisional Officer, Panchkula, Ambala Division under administrative control of Deputy Commissioner, Ambala on 11.07.1990 after selection made by Haryana Subordinate Selection Board. Respondent No.4-Suresh Kumar had also joined as Clerk in the office of Deputy Commissioner, Bhiwani under Hisar Division on the same date.

Respondent No.4 was transferred from Bhiwani to Ambala vide order

22.11.1990 vice versa with another Clerk, namely, Anand Parkash in the office of Sub Divisional Officer (Civil), Naraingarh, District Ambala. Respondent No.4 joined in Bhiwani on 11.12.1990 and subsequently joined in Ambala District on 12.12.1990. Pleaded case of the petitioner is that respondent No.4 had lost his right of seniority for the services performed in Bhiwani District due to his transfer. However, still he was placed at Sr. No.48 as against the petitioner who was shown at Sr. No.49. Petitioner and other persons also raised objections against the seniority list but the same were rejected vide impugned orders. Petitioner also approached the competent authorities from time to time, but to no avail.

3. I am unable to persuade myself with the submissions of learned counsel for the petitioner that petitioner was pursuing his cause by moving representations from time to time and there was no specific order rejecting the same while finalizing the seniority list. The same flies in the face of final Divisional Level seniority list of Stenographer/Assistants dated 30.09.2005/07.11.2005 (Annexure P-13), as by sheer long acquiescence which the petitioner himself perhaps chose as a matter of *fate accompli* at different steps, as is borne out from the details given in para No.1 of preliminary objections of the written statement, which is extracted herein below:-

“1. At the very outset it is most humbly and respectfully submitted that the lis in present Petition is severely hit by the Principle of inordinate Delay and Latches. The petitioner and respondent no.4 were appointed as clerk on 11.07.1990 in the revenue department and the services of the petitioner as well as respondent No. 4 were governed by the Haryana Revenue Department District Group (C) Service Rules 1988. According to these rules seniority list of clerks and Assistants was to be issued and finalized by the respective Deputy Commissioner. That in the year 1995 the Deputy Commissioner Ambala had issued a seniority list of clerks in which names of the petitioner and respondent No. 4 were figured at Serial No. 49 and 48 respectively. The copy of the

seniority list has already been annexed with the present writ petition as Annexure P-6. The petitioner as well as respondent no 4 were promoted to the post of Assistant on 16.03.1999 on the basis of above said seniority list issued in the year 1995 by the Deputy Commissioner Ambala. Thereafter a tentative seniority list of Stenographers/Assistants as on 30.09.2000 was prepared by the Deputy Commissioner Panchkula (respondent No.3) and the same was conveyed to the petitioner vide Memo No.3044-53/EA dated 23.10.2000 (copy of this memo alongwith tentative seniority list is annexed with present writ petition as Annexure P-8). The names of the petitioner and respondent No.4 were figured at Serial No.9 and 8 respectively in the said seniority list. The petitioner filed objections before Deputy Commissioner Panchkula (respondent no.3) vide annexure P-9. In the meantime on 22.08.2000 the Haryana Revenue Department Divisional Subordinate (Group C) Services (First Amendment) Rules, 2000 came into force. According to these rules a Divisional Level Seniority List of Stenographer/Assistants was prepared as on 30.09.2000 and vide Annexure P-10 objections were invited from the assistants working in all the Deputy Commissioner's office of Ambala Division. The copy of Annexure P-10 was endorsed to the petitioner by the Deputy Commissioner Panchkula (respondent No,3). The petitioner's objection Annexure P-11 was received through Deputy Commissioner, Panchkula in the office of answering respondent but the same was filed because petitioner failed to produce any document in support of his claim. That vide letter dated 05.10.2005(Annexure P-12) affected employees including the petitioner were called for personal hearing on 14.10.2005. Thereafter a Divisional Level final seniority of Assistants as on 30.09.2005 (Annexure P-13) was issued and conveyed to the all concerned including the petitioner through concerned Deputy Commissioner vide endorsement No. EA-III/9943-50, dated 07.11.2005. Thereafter a revised seniority list of assistants as on 10.10.2006 was issued and the same was conveyed to the petitioner vide Annexure P-14. That on 04.06.2013 the petitioner as well as respondent no. 4 were further promoted to the post of Assistant Superintendent on the basis of Divisional level joint seniority of assistants. The copy of the promotion order dated 04.06.2013 is annexed as Annexure P-15. The petitioner now by filing the present civil writ petition wants to get the seniority list of clerks issued in the year of 1995 by the Deputy Commissioner Ambala changed. Admittedly, the Petitioner filed representations Annexure P/7, P/9 & P/11 way back in the years 1999, 2000 & 2001 respectively. It is submitted with emphasis that in the seniority list of 'Clerks', the respondent no 4 has been shown as senior to the Petitioner. In the seniority list of Assistants as on 30.09.2005 as per office record, the name of the petitioner and respondent no. 4 was figured at Serial No.69 and 68 respectively. Even in revised seniority list of

Assistants as on 10.10.2006, the name of the petitioner and respondent No. 4 was figured at Serial No. 70 and 69 respectively. Thus in above seniority lists the Petitioner was shown junior to respondent No.4. Before finalizing the said seniority, the objections were invited and decided as per rules. If the petitioner had any issue with the seniority, he could have, and should have, filed objections there & then only qua the seniority of "Clerks" and "Assistants", and if his objections/representation was not decided, if filed, then he should have taken appropriate measure at that time itself, and NOT AFTER A DELAY OF ABOUT 18 YEARS. Therefore, the present petition is liable to be dismissed on this ground alone."

4. Indeed, objections had been filed by the petitioner from time to time, but making a bald claim based on his viewpoint, no relevant material was ever appended or produced. Not only that, he was also accorded personal hearing and it was thereafter that the final Divisional Level seniority list of Stenographer/Assistants dated 30.09.2005/07.11.2005 (Annexure P-13) was issued and conveyed to all concerned including the petitioner. Despite the petitioner having full knowledge of the aforesaid, he yet chose not to make any hue and cry and never challenged the same. On being confronted with the aforesaid observations, the learned counsel for the petitioner again submits that for all these years the petitioner was pursuing his representations. Being so, it appears that the petitioner, on his own volition, has kept the pot boiling as the seniority list was actually finalized in the year 2005 and the writ petition was filed in the year 2017 and there was a colossal delay of at least 22 years.

5. Even otherwise on merits also, the claim of the petitioner is completely baseless, as is borne out from the record since all throughout at every step he was junior to respondent No.4.

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6. No ground for interference is made out. Petition is dismissed both on the ground of delay and laches as well as on merits.

7. Pending civil miscellaneous applications, if any, also stand disposed of.

December 07, 2022
ashish

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No