

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision: 11.09.2023

1. CWP-14910-1996 (O&M)

Raj Kumar and others

.... Petitioners

Versus

State of Punjab and others

.... Respondents

2. CWP-3159-2015 (O&M)

Raj Kumar and others

.... Petitioners

Versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: None for the petitioners.

Mr. D.K. Singhal, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. By this common order, two petitions bearing CWP-14910-1996 and CWP-3159-2015, the details of which have been given in the heading, are being decided.

2. No one is present on behalf of the petitioners. This matter pertains to the year 1996 and therefore, has been taken up for hearing today.

3. Learned State counsel was heard on merits of the case and I have perused the contents of the writ petitions.

4. The petitioners had earlier preferred CWP-2890-1996 wherein the Division Bench of this Court, vide order dated 26.02.1996 directed the

respondents to decide the representation of the petitioners and passed a speaking order within four months. Thereafter, the four petitioners therein submitted their representation and the respondents passed a speaking order rejecting their claims and resultantly the present writ petition was filed challenging the said order, whereby, their representation was rejected and also claiming their seniority from initial appointment over and above those who have been transferred from another district.

5. The Punjab Land Records (State Service Class-III) Rules, 1976 provides under Rule 11-A that 'a member recruited by direct appointment shall be senior to a member recruited otherwise'. The cadre of Patwaris is maintained district wise and the seniority list of Patwari is accordingly prepared district wise. If a person is transferred from one district to another district on his own request, he would loose his seniority. So far as the petitioners are concerned, it has come on record that all of them were appointed on adhoc basis by the concerned Collector on 18.07.1982. 106 Patwaris out of 111 Patwaris were regularized w.e.f. the date mentioned against them their names. The dates mentioned as 11.01.1983 and onwards.

6. It has come on record from reply filed by the respondents that 11 Patwaris, who are recruited on the recommendation of Punjab Subordinate Services Selection Board, were transferred from Jalandhar to Gurdaspur on their own request and they joined on 31.05.1982, 16.08.1982, 18.08.1982, 19.08.1982 and 23.08.1982. The dates of issuance of order of transfer and date of joining are mentioned in the reply filed in CWP-3159-2015. Thus, they loose their seniority in the previous district but are granted seniority from the date they have joined the Gurdaspur District. So far as the petitioners are concerned, admittedly, they have been regularized w.e.f. 1983

onwards. So far as their adhoc services are concerned, the same cannot be counted for the purpose of seniority as already held by Full Bench of this Court, wherein, it has been held that a person who has been appointed on adhoc basis can only claim seniority from the date being regularly appointed and would fall junior to a person who has been regularly selected. The concerned Patwaris who were transferred from Jalandhar to Gurdaspur would thus be senior to the petitioners.

7. In view thereof, the claim of seniority over and above the said regularly selected person, is not available. The letter dated 13.03.1986 of the Department of Personnel and Administrative Reforms which lays down that the adhoc service cannot be counted to seniority, is also not under challenge. The State Government has issued the said instructions on the basis of judgment passed by the Full Bench of Punjab & Haryana High Court in CWP-5592-1989, decided on 28.09.1994.

8. In view thereof, the representation of the concerned four petitioners was rightly rejected and no interference is warranted in both the petitions.

9. Keeping in view the above, the present petitions are found to be without merit and accordingly, the same are dismissed.

10. The pending application(s), if any, shall stand(s) disposed of accordingly.

11.09.2023
D.Bansal

(SANJEEV PRAKASH SHARMA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No