

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(205)

CWP No. 14190 of 1997 (O&M)
Date of Decision : 18.08.2023

Rajinder Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Nitin Sherwal, Advocate for
Mr. Satish Goel, Advocate for the petitioners.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

Mr. Tarun Yadav, Advocate for respondents No. 3 and 6.

Mr. N.K. Suneja, Advocate for respondent No. 9.

Harsimran Singh Sethi J. (Oral)

The present petition has been filed directing the finalization of the tentative seniority list (Annexure P-1) in the Cadre of the Deputy District Attorney and also to the promotions, which have been effected by the respondents vide order dated 05.09.1997 (Annexure P-4).

Learned counsel for the petitioners argues that petitioner No. 1 was promoted as Deputy District Attorney on 06.09.1990, whereas petitioners No. 2 and 3 were promoted to the said post on 15.02.1991. As per the petitioners, the tentative seniority list, which has been issued by the respondent-department in the cadre of Deputy District Attorney, was

not in accordance with law as the petitioners were entitled for seniority over and above the private respondents.

Learned counsel for the petitioners further argues that once the petitioner No. 1 had joined the post of Deputy District Attorney on 06.09.1990, he was entitled to be declared senior to the employees, who had joined after the said date, hence, declaring of the private respondents senior to the petitioner is arbitrary and illegal and the consequent promotion of the private respondents No. 3 to 5 to the post of District Attorney is also arbitrary and illegal.

In the reply filed, the respondents have stated that the private respondents were duly selected as Deputy District Attorney by the Haryana Public Service Commission in the year 1990 and it is only after their appointment, they had joined on various dates, hence, the date of appointment is to be seen qua the private respondents and not the actual date of joining keeping in view the fact that they were directly recruited, whereas petitioner No. 1 joined as Deputy District Attorney on 06.09.1990 by way of promotion and other petitioners joined on the said post on 15.02.1991 i.e. much after even the joining of the private respondents in the cadre of the Deputy District Attorney.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present petition, the grievance of seniority is being raised only on the basis of the date of joining, ignoring the fact that the petitioners joined on the post in question by way of promotion, however

the private respondents No. 3 to 5 were directly recruited through Haryana Public Service Commission in the year 1990. Though, the date of joining of the private respondents is different but once, they were selected by the Haryana Public Service Commission, rather than the date of joining, the date of appointment is to be taken into consideration for ascertaining their seniority in the Cadre of Deputy District Attorney. It may be noticed that petitioners No. 2 and 3 joined as Deputy District Attorney on 15.02.1991 whereas, private respondents No. 3 to 5 had joined on the post of Deputy District Attorney much prior to the said date, hence, petitioners No. 2 and 3 has no case on any ground to say that private respondents No. 3 to 5, who were further promoted as District Attorney vide order dated 05.09.1997 (Annexure P-4) were in any way junior to them.

Qua petitioner No. 1, who was promoted on 06.09.1990, it may be noticed that the private respondents No. 3 to 5 joined as Deputy District Attorney on 03.08.1990, 04.09.1990 and 13.09.1990 respectively. It is clear that respondents No. 3 and 4 have joining even prior to petitioner No. 1 and on this account also, no grievance can be made by petitioner No. 1 qua respondents No. 3 and 4. Qua respondent No. 5, it has already been mentioned that all the three respondents i.e. respondents No. 3 to 5 joined by way of direct recruitment after being selected through Haryana Public Service Commission in the year 1990. The fact that all the private respondents got selected in the same selection and were appointed by the same orders, merely that respondent No. 5 joined

three days after the promotion of the petitioner will not give right to petitioner No. 1 to claim seniority. Once respondent No. 5 was already appointed prior to the promotion of petitioner No. 1, he cannot be treated as a junior to petitioner No. 1 only on the ground that he joined the duty after petitioner No. 1.

Further more, as of now, all the petitioners as well as private respondents have retired. As per the petitioners, the petitioners retired two decades ago. The similar is the case with the respondents. Hence, directing the respondents to frame a seniority list as of now in the cadre of Deputy District Attorney will serve no purpose.

Keeping in view the above, no ground is made out for any interference by this Court.

Dismissed.

CM-27815-CWP-2000

As the main petition has been dismissed, the present application stands disposed of.

August 18, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No