

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

107

CWP No. 3287-2023 (O&M)
Decided on : 09.10.2023

Balkar Singh and others . . .Petitioners
Versus
State Of Haryana And others . . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Ravi Sharma, Advocate for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance being raised by the petitioners is that the claim of the petitioners for appointment to the post of Drivers, w.e.f. the date persons lower in merit have been allowed to join the duty has been rejected by the respondents.
2. Learned counsel for the petitioners argues that the post of drivers were advertised by the respondents and the petitioners were duly selected and appointed on the said post on 16.01.2014 alongwith other Drivers. Though, the appointment was issued on 16.01.2014 but, petitioners were only allowed to join the duties on 22.04.2014, whereas, the candidate who were lower in merit but were also appointed in regards to the same selection/appointment letter on 16.01.2014 were allowed to join much prior to 22.04.2014, which has caused prejudice to the petitioners, as a candidate lower in merit cannot be appointed or allowed to join in preference to a candidate, who is higher in merit. Hence the claim of the petitioners is that they should also be given deemed appointment from the date of joining of candidates lower in merit with all consequences benefits.
3. Learned counsel for the respondents submits that vide order

dated 16.01.2014, the petitioners were selected and allocated the depots, wherein they were to be issued appointment order and as the verification of the documents submitted by the petitioners to support their selection took time, the petitioners were appointed on 22.04.2014, hence, no grievance can be raised by the petitioner in this regard.

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

5. It is a matter of fact that a joint selection process was undertaken for all the depots where the appointment were to be made. It is also a settled principle of law that a candidate having higher merit has preferential right of appointment as compared to the candidate having a lower merit. Once, a candidate having lower merit have been given appointment in pursuance to the same selection process on a particular date, it cannot be said that a candidate having higher merit will be appointed after a candidate having a lower merit.

6. Petitioners higher in merit will suffer prejudice as the seniority of the Driver is state-wise and a candidate, who is higher in merit but is being made allowed to join the duties after a candidate, who is lower in merit, will also disturb the seniority which is also not permissible, keeping in view the fact that the seniority is to be made from the continuous length of service, hence, the petitioners are entitled for the grant of appointment/joining from the date from which the candidate lower in merit was appointed/joined the duties.

7. Hence, keeping in view the said factual aspects, the **present petition is disposed of** with directions to the respondents to ascertain the claim of the petitioners as to whether any candidate who were lower in merit than the petitioners was appointed prior to 22.04.2014 and in case, any

CWP No. 3287-2023 (O&M) -3- 2023:PHHC:130739

candidate lower in merit has been appointed prior to 22.04.2014, the petitioners be also given the said deemed date of appointment so that the petitioners does not suffer prejudice being higher in merit.

8. The petitioners be also paid the consequential benefits from the said date.

9. Let the respondents considered the claim of the petitioners keeping in view of the observation made by this Court and pass an appropriate order within a period of three weeks from the date of receipt of certified copy of this order and in case petitioners are found entitled for ante dated appointment, they be granted all the consequential benefits, failing which, the respondents must give detailed reasons for not accepting the claim of the petitioners.

10. Ordered accordingly.

(HARSIMRAN SINGH SETHI)
JUDGE

09.10.2023

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Whether speaking/reasoned: *Yes/No*
Whether Reportable: *~~Yes~~/No*