

205

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-1889-2014 (O&M)

Date of Decision: 28.07.2023

Kulwant Rai

. . . . Petitioner

Vs.

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. R.S. Chauhan, Advocate
for the petitioner.

Ms. Shivani Sharma, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. Present Writ Petition has been filed by the petitioner after his retirement seeking to challenge the seniority list for the posts of conductors prepared in the year 2002, and also prays for considering the period from 11.11.1978 to 04.10.1980 as qualifying service for the purpose of pension and other retiral benefits.
2. The respondents have filed their reply and it is stated that the petitioner has worked from 11.11.1978 to 16.11.1978, 18.11.1978 to 30.11.1978, 01.12.1978 to 15.12.1978, and thus the period from 11.11.1978 to 15.12.1978 being interpreted working for only 34 days. The same cannot be counted as regular service. The petitioner was placed in the regular service from 04.10.1980 and has continued. Accordingly, his regular service has been counted as 30 years, 1 month and 15 days.

Even if the period of 34 days of adhoc service as above is counted, then too there shall be no difference as his service would be of 30 years, 2 months and 19 days. As regards the seniority list, the respondents have objected to challenge the same after being retired from service.

3. I have considered the submissions.
4. There is a deliberate delay in challenging the seniority list which was published in the year 2002 by preferring a writ in the year 2014 after retirement.
5. This Court has held in ***Balbir Singh Bedi vs. State of Punjab and others, (2013) 11 SCC 746*** as under:

“20 In view of the above, the law as regards this point can be summarised to the effect that, where a promotion is to be given on the principle of "seniority-cum-merit", such promotion will not automatically be granted on the basis of seniority alone. Efficiency of administration cannot be compromised with at any cost. Thus, in order to meet said requirements, all eligible candidates in the feeder cadre must be subject to a process of assessment to determine whether or not an individual in fact possesses the specified minimum necessary merit, and in the event that he does possess the same, his case must be considered giving due weightage to his seniority. Furthermore, the statutory authority must adopt a bona fide and reasonable method to determine the minimum necessary merit, as is required to be possessed by the eligible candidate. It must also take into account his period of service, educational qualifications, his performance during his past service for a particular period, his written test, interview, etc. The authority must further be competent to allocate separate maximum marks on each of the aforesaid counts. Fixing such criteria, or providing for minimum necessary merit, falls within the exclusive domain of policy-making. Thus, it cannot be interfered with by courts in the exercise of their judicial powers, unless the same is found to be off the mark, unreasonable, or mala fide.”

6. Seniority list challenged after inordinate delay cannot be entertained. Such delay itself would be fatal to the maintainability of the Writ Petition.

- 7. In the opinion of this Court, no claim is made out.
- 8. Thus, the petition is **dismissed** being devoid of merits.
- 9. Pending application(s), if any, also stands disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

July 28, 2023

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |