

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-4642-2020 (O&M)
Reserved on: 06.02.2024
Pronounced on: 15.02.2024

Surinder Kumar
... Petitioner
Versus

Punjab Vidhan Sabha Secretariat, Punjab and others
... Respondents

CORAM: HON'BLE MR.JUSTICE AMAN CHAUDHARY

Present: Mr. Surinder Kumar, petitioner in person

Mr. Vaishnav Gandhi, DAG, Punjab

Mr. D.V. Sharma, Senior Advocate with
Mr. Arshdeep, Advocate for respondent No.2

Mr. D.S. Patwalia, Senior Advocate with
Mr. Armaan Dahiya and Ms. Alisha Sharma, Advocates
for respondent No.3

AMAN CHAUDHARY, J.

1. The challenge laid in the present petition is to the final seniority list, Annexure P-19 and the order whereby the deemed dates of promotion have been given to the petitioner and private respondents vide order dated 13.11.2019, Annexure P-20 and the order dated 01.03.2019, Annexure P-10 promoting respondent No.3 as Principal Chief Reporter.
2. The petitioner submitted that the mistakes having been committed by him in the qualifying type test, being lesser than respondent No.3, who even though stood appointed on the same date as him, would rank junior to him. For this purpose, he also placed reliance on the Instructions dated 24th November, 1962 (hereinafter referred to as “1962 Instructions”), which deals with the aspect of *inter se* seniority to be determined as per the merit in the selection process.

Insofar as, respondent No.2 is concerned, he was not born in the cadre when the petitioner was selected and joined, as he was appointed on 05.05.1993, thus the seniority list be quashed and he be shown as the senior most, be appointed as Editor of Debates.

3. Learned Senior counsel for respondent No.2 as well as learned State counsel would submit that the Department had rightly, by the order dated 13.11.2019, Annexure P-19, prepared the seniority list by relying on 1962 Instructions, on account of the percentage of mistakes having been committed by the respective candidates in the qualifying type test, based on which he was placed above the petitioner and as well as respondent No.3-Jaswinder Singh, his mistakes being the least.

4. Learned Senior counsel offered resistance to the prayers, on the premise that respondent No.3 and the petitioner were appointed against the posts falling in different cadres and therefore, their *inter se* merit had to be determined in terms of Punjab Civil Services (General and Common Conditions of Services), Rules, 1994 (hereinafter referred to as “1994 Rules”), as per which, length of service was the criteria. The petitioner, having joined a day later, would rank junior to him.

5. Heard the petitioner as also the learned counsel for the respondents.

6. Incontrovertibly, the petitioner and respondent Nos. 2 and 3 emerge from different cadres, the former being of Reporter-English, the latter Hindi and as such, their seniority will be framed separately but considering that their respective cadres were in the feeder cadre for a single promotion post cadre, a common eligibility/ seniority list has to be prepared, which would, but obviously and as per the 1994 Rules as well, be based on their length of service in their cadres, from the date of their joining, there being no other mode to determine *inter se* positions. In wake of which, the petitioner, having joined on 11.12.1992, whereas the

respondent No.2 on 05.05.1993, would rank senior, however, he would be junior to respondent No.3, whose date of joining was 10.12.1992. This Court, is thus, unable to countenance the argument being canvassed by relying on the 1962 Instructions that there can be an evaluation of seniority between the petitioner and respondent No.3-Jaswinder, based on the merit gained in the selection at the initial stage, despite the cadres to which they were recruited, being distinct.

7. On a cumulative consideration of the matter and as a fall out thereof, the present petition is allowed to the extent of setting aside the orders dated 13.11.2019, Annexures P-19 and 20, and is disposed of, by directing respondent No.1 to frame the seniority list keeping in view the aforesaid.

		(AMAN CHAUDHARY)
		JUDGE
15.02.2024		
Hemant	Whether speaking/reasoned	: Yes / No
	Whether reportable	: Yes / No