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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision : 20-09-2024

1. CM-6130-CWP-2024 in/and
CWP No.3329 of 2024 (O&M)

BHOLA RAM AND ORSPetitioner(s)
VERSUS
STATE OF PUNJAB AND ANRRespondent(s)

And

2. CM-15341-CWP-2024 with
CM-15021-CWP-2024 and
CM-15022-CWP-2024 in/and
CWP No.17041 of 2024

RITU KAPOOR AND ORSPetitioner(s)
VERSUS
STATE OF PUNJAB AND ANRRespondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr.Gauravjit Singh Patwalia, Advocate with
Mr. Rahul Mahajan, Advocate and
Ms. Lagan Kaur, Advocate
for the petitioners in CWP No.3329 of 2024.

Mr. Anil Mehta, Advocate and
Mr. Prashant Kapila, Advocate for the petitioners
in CWP No.17041 of 2024.

Mr. Swapan Shorey, DAG Punjab.

Mr. H.S Saggu, Advocate

for respondent No.4 in CWP No.17041 of 2024.

Mr. Puneet Jindal, Senior Advocate with
Mr. Parambir Singh, Advocate and
Ms. Arshnoor Singh, Advocate
for respondent No.8 in CWP No.17041 of 2024.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-15341-CWP-2024 with CM-15022-CWP-2024 in CWP No.17041 of 2024

These are the applications for placing on record reply on behalf of respondent No.4 along with Annexures R4/1 to R4/5 and also for exemption from filing certified and typed copies of the same and for placing on record written statement on behalf of respondent No.8, respectively.

In view of the contents mentioned in the applications, the same are allowed.

Reply on behalf of respondent No.4 along with Annexure R4/1 to R4/5 and written statement on behalf of respondent No.8 are taken on record subject to all just exceptions.

CWP No.3329 of 2024 (O&M) and CWP No.17041 of 2024 (O&M)

Present set of two writ petitions involve common question of law in the background of common set of facts and thus they are being decided by a common order.

The grievance of the petitioner(s) being raised in the present petitions is with regard to the current duty charge of the post of Naib Tehsildar. The grievance is that the current duty charge is to be given on the basis of the seniority and as of now, the charge which has been given to the

Senior Assistant as well as Kanungos, is by violating the seniority and therefore in case the Department intends to get the work of 14 posts of Naib Tehsildar which are available in the direct quota post, to be filled on current duty charge basis, the seniority cadre should be maintained.

The further prayer of the petitioner(s) working as Kanungos is that in respect of Kanungos, there are 9 posts which are available in their own quota for regular promotion as Naib Tehsildar and rather filling of those 9 posts of Naib Tehsildar on regular basis, the Kanungos are being reverted without their being any application of mind that as of now, they are within their quota to get the regular promotion. The similar is the claim of one post of Naib Tehsildar lying vacant to be filled from the feeder cadre of Senior Assistant.

Learned counsel appearing on behalf of the respondent-State on instructions submits that he has received written instructions dated 20.09.2024 wherein it has been mentioned that 14 posts of Naib Tehsildar which are lying vacant in the direct quota, due action will be taken to fill these posts through direct recruitment by sending the requisition to the Punjab Public Service Commission but till, the selection of these vacant posts of Naib Tehsildar is finalised, the 14 vacant posts, in case are necessarily to be filled up by giving current duty charge so that the work of the Department does not suffer, the same will be given on the basis of the seniority in the feeder cadre.

The written instructions which the State counsel has been received which have been brought to the notice of this Court are detailed as under:-

- 1. The answering respondents are bound and will abide the orders of this Court in true letter and spirit.*
- 2. The present position of vacant posts of Naib Tehsildar is as follows:-*

Total Sanctioned Posts(2021)	Total	Filled	Vacant	Remarks
Direct Quota (47%)	95	81	14	13 Senior Assistants are temporarily promoted against direct posts and 01 Kanungo temporarily promoted against direct posts
Promotion from Kanungo (50%)	100	91	09	Promotion of 09 vacant posts of Kanungo quota is under consideration
Promotion from Senior Assistant (30%)	06	05	01	Promotion of 01 vacant posts of Senior Assistant quota is under consideration
Total	201	177+14=191	24-10=10	---

- 3. According to the above table, 13 Senior Assistants and 01 Kanungo is currently working against direct quota posts on temporary basis.*
- 4. The list of Inter-se-seniority (Register-B and Register-C) dated 11.06.2024 (Annexure P-6) has been now finalised by department on dated 02.08.2024 (copy enclosed).*
- 5. Whenever direct quota post candidate became available, junior most Senior Assistant with temporary charge of Naib Tehsildar will be reverted based on inter-se-seniority prevailing at that point of time.*
- 6. In compliance of orders of this Hon'ble Court, it has been decided by the answering respondent that as per inter-se-seniority list dated 02.08.2024, first 13 Senior Assistant shall be given the temporary charge of Naib Tehsildar against the direct recruitment quota posts which are lying vacant. Further, in future, if any Senior Assistant enters in the inter-se-seniority list being senior among the present 13 Senior Assistants, then the junior most Senior Assistant having temporary charge from the prevailing inter-se-seniority list at that point of time shall be reverted.*
- 7. In case any of the Senior Assistant having temporary charge as per inter-se-seniority retires or gets regular promotion, then the Junior Senior Assistant shall not claim the temporary charge as matter of right. It will be the discretion of the Government to give or not to give the*

temporary charge against direct recruitment quota among Senior Assistants and Kanungos.”

Learned State counsel submits that all these 14 posts will be filled up by giving the current duty charge in case necessary, on the basis of the seniority only and anyone, who is senior and is not holding the current duty charge, will be given the same and any junior, who is holding the current duty charge in preference to his senior, the said charge will be withdrawn.

Learned counsel for the respondent-State further submits that in case any of the employee who is enjoying the current duty charge of the post of Naib Tehsildar retire or get regular promotion, it will be the discretion of the Department to fill the same by giving current duty charge or to keep the said post vacant till the same is filled in accordance with law by direct recruitment.

Learned counsel for the respondent-State further submits that there are 9 posts which are lying vacant to be filled from Kanungos and appropriate has already been initiated to fill 9 posts on regular posts from the feeder cadre of Kanungos.

Learned counsel for the respondent further submits that the said process of regular promotion will be finalised till 31.10.2024 and in case any of the Kanungos, who is within first 9 in the seniority list eligible to be promoted as Naib Tehsildar in their own quota, is working as current duty charge, they will be allowed to continue till the said posts are filled up on regular basis by 31.10.2024 and the similar action will be taken qua one post of Naib Tehsildar to be filled out of Senior Assistant, which will also be filled up on regular basis by 31.10.2024 and the senior most Senior

Assistant, in case is discharging the duties on current duty charge, the same will be considered against his own quota post to be filled up on regular basis and the 14 posts of Naib Tehsildar which are in the direct quota, the candidates starting from second most serving Senior Assistant onwards will be considered for grant of the current duty charge.

Keeping in view the above, the learned counsel appearing on behalf of the petitioner(s) submits that the present set of two petitions may kindly be disposed of as having been not pressed any further.

Learned Senior counsel appearing on behalf of the private respondents submits that in case, any of the private respondent is aggrieved against the decision, which has been brought to the notice of this Court, by the State counsel, which has been taken into account while passing the present order, liberty be given to avail appropriate remedy in case, any of the private respondent is aggrieved against the said decision.

Ordered accordingly.

Pending application, if any, also stands disposed of.

Photocopy of this order be placed on the file of other connected case.

20-09-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE:

Whether speaking: YES/NO
Whether reportable: YES/NO