



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP-12348-2024

Date of Decision :27.05.2024

Sandeep Kumar and others**...Petitioners****Versus****State of Haryana and others****....Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Vikram Singh, Advocate with
Mr. Sukhdev Singh, Advocate & Mr. Ishnoor Singh, Advocate
for the petitioners.

Mr. Harish Nain, AAG, Haryana
(keeping in view advance copy served).

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Harsimran Singh Sethi, J. (Oral)

In the present petition, the challenge is to the gradation list dated 15.07.2021 (Annexure P/15) in the cadre of Coaches on the ground that the said gradation list is violative of Rule 11 of the Haryana Sports and Youth Welfare Department (Group-B) State Service Rules, 1996 (hereinafter referred as '1996 Rules')

Learned counsel for the petitioners submits that the petitioners were appointed as Coaches in various sports field starting from August, 2009 till January, 2010 and the post of Coach is governed by 1996 Rules and Rule-11 of the said 1996 Rules deals as to how the seniority of the



members is to be fixed. Learned counsel for the petitioners further submits that vide notification dated 16.07.2009 (Annexure P/3), posts of Junior Coaches and Junior Yoga Coaches were merged with the cadre of Coaches and Yoga Coaches respectively. Upon merger, Junior Yoga Coaches came to be designated as Coaches. Learned counsel for the petitioners argues that though, the said notification was issued prior to the joining of the petitioners as Coaches but as the approval was given by the Government on 10.08.2010, the benefit of seniority to the private respondents could not have been given over and above the petitioners, who were already working on the post of Coaches on the date when the cabinet decision was passed qua the merger with the cadre of Coaches and Yoga Coaches respectively on 10.08.2010.

Learned counsel for the petitioners further submits that even otherwise, grant of seniority on the said post to the private respondents over and above the petitioners is contrary to Rule-11 of the 1996 Rules hence, gradation list dated 15.07.2021 (Annexure P/15) wherein, the private respondents have been shown senior to the petitioners is contrary to the rules governing the service and is liable to be set aside.

Keeping in view the advance copy served, Mr. Harish Nain, AAG, Haryana appears on behalf of the respondent-State and submits that once, prior to the joining of the petitioners, the cadre of Junior Coaches and Junior Yoga Coaches had already been merged with that of Coaches and Yoga Coaches by notification dated 16.07.2009 (Annexure P/3) by the competent authority mere formalities were completed on 10.08.2010 and on



the date, when the petitioners were appointed, there was only one cadre of Coaches and the private respondents are to be treated Coaches from their respective date of appointment on the post concerned i.e. Junior Coach and as all the private respondents were appointed on the said post prior to the petitioners, they have rightly been treated senior to the petitioners in the cadre of Coaches as District Sports Officer.

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

It is a conceded fact that on the date when the petitioners were appointed, the notification dated 16.07.2009 (Annexure P/3) with regard to merger of cadre of Junior Coaches and Junior Yoga Coaches with that of Coaches and Yoga Coaches had already been issued by the Government. Once, the Governor of Haryana had issued a notification merging two cadres, all the Junior Coaches are to be treated as a part of the cadre of coaches from the said date hence, on the date when the petitioners were appointed as Coaches, the private respondents, who are being treated as Junior Coaches by the petitioners, cannot be accepted. On the date of appointment of the petitioner, the private respondents were part of the cadre of Coaches keeping in view the notification dated 16.07.2009 (Annexure P./3).

The other argument which has been raised by the learned counsel for the petitioners is that the grant of seniority to the private respondents is contrary to Rule-11 of the 1996 Rules, which rule is reproduced as under:-



“Seniority:- 11. Seniority, inter se of members of the service shall be determined by the length of continuous service on any post in the services:

Provided that where there are different cadres in the service the seniority shall be determined separately for each cadre;

Provided further that in the case of an member appointed by direct recruitment, the order of merit determined by the Commission shall not be distribute in fixing the seniority:

Provided further that in the case of two or more member appointed on the same date their seniority shall be determined as follows:-

(a) a member appointed by direct recruitment shall be senior to a member appointed by promotion or by transfer.

(b) a member appointed by promotion shall be senior to a member appointed by transfer;

(c) in case of a member appointed by promotion or by transfer seniority shall be determined according to the seniority of such members in the appointment from which they were promoted or transferred; and

In case of members appointed by promotion or by transfer from different cadres, their seniority shall be determined, according to pay, preference being given to a member who was drawing a higher rate of pay in his previous appointment, and if the rate of pay drawn are also the same, then by the length of their service in the appointments and if the length of such services is also the same, the older member shall be senior to the younger member.”

Learned counsel for the petitioners argues that a member recruited by way of direct recruitment has to be treated senior to a member appointed by promotion or transfer and hence, as the private respondents have been brought into the cadre of Coaches by way of merger, the petitioners who are appointed by way of direct recruitment are to be treated senior to the private respondents.

The said interpretation of Rule-11 of the 1996 Rules is incorrect.

A bare perusal of the said Rule-11 would show that seniority of the members are to be determined on the basis of the continuous length of service on



the cadre of Coaches and Yoga Coaches, the total length of service of the private respondents is to be taken into account from the date of their initial appointment as Junior Coach even while considering their seniority in the cadre of Coaches. It is a conceded position that private respondents were appointed on a much prior date than that of the petitioners.

The proviso which is being read to mean that the direct recruits is to be treated senior than a person appointed by way of promotion or transfer is only applicable where two persons are appointed from different sources on the same date. It is conceded position that private respondents were appointed on much prior date than that of the petitioners hence, the rule which is being cited to claim the seniority over and above the private respondents is not at all applicable in the facts and circumstances of the present case.

No other argument has been raised.

Keeping in view the facts and circumstances noticed hereinbefore, no ground of interference by this Court is made out and the present petition is accordingly dismissed.

May 27, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No