



CWP-2617-2018
CWP-2846-2022

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

219-2 cases

CWP-2617-2018(O&M)
Date of decision: 06.11.2024

Bhagwan Dass
.....Petitioner
Versus

State of Haryana and others
...Respondents

CWP-2846-2022(O&M)
Karam Chand
.....Petitioner
Versus

State of Haryana and others
...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Ashutosh Kaushik, Advocate
for the petitioner(s) in both cases.

Ms. Tanisha Peshawaria, DAG, Haryana.

AMAN CHAUDHARY, J. (Oral)

1. These cases involve similar issues and therefore, are being disposed of together by this common judgment and the facts are being derived from CWP-2617-2018.
2. The petitioner was appointed as Patwari in the Revenue Department, District Karnal and as such, joined on 21.10.1986. The Govt. decided to carve out a new District Kaithal, taking the area from the Revenue Districts of Karnal and Kurukshetra for that purpose, which included village Amin Patwari Circle where the petitioner was posted, by issuance of Notification dated 17.10.1989, Annexure P-3. By virtue of the above, he was placed at the tail end of the seniority list in the new district, taking away the service rendered by him in District Kurukshetra, for which neither any consent nor option was taken from him, as is apparent from letter dated 17.04.2013,



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Annexure P-6 of Deputy Commissioner, Kurukshetra, with regard to the representation submitted by the petitioner, relevant of which reads thus:

“...Earlier village Amin was in district Karnal and this Patwari was deployed there. Later on this village was transferred to district Kurukshetra. Neither transfer orders of this employee were issued nor option was taken from him. Seniority is provided to other Patwaris effective from the date of their transfer to this district.”

3. The aforesaid administrative action could not be to the detriment of the petitioner and cause prejudice insofar as his seniority position was concerned. This Court in **Suresh Kumar vs. State of Haryana and others**, CWP-16618-2010, decided on 27.04.2012, to which no challenge was made and the issue involved was of placing the petitioner therein, a Patwari, at the bottom of the seniority list, despite the fact that his transfer was not on his own request and consent, observed and held thus:

“I have considered the submissions made by the counsel for the parties and have gone through the records of the case.

Petitioner, admittedly, was appointed in District Sirsa as Patwari on 19.12.1984 on regular basis. He continued to work there as a Patwari when vide order dated 21.05.1986 (Annexure P-1), he and some other persons were transferred to different districts on administrative basis. Petitioner, who was working in District Sirsa, was transferred to District Ambala vide this order. He, in compliance with the said order, joined as Patwari in District Ambala. The seniority, when framed in District Ambala, he found his name at the tail-end of the seniority list and he had lost his earlier service which he has rendered in Sirsa for the purpose of seniority. It would not be out of way to mention here that the transfer order dated 21.05.1986 was issued by the respondents on their own and it was neither on the request of the petitioner nor with his consent. If that be the situation, the stand of the respondents that the seniority and the cadre of Patwari is a district cadre and, therefore, with the change of district, the cadre would change which would result in losing the seniority, would be correct only in a situation where an employee opts for or makes a request for a transfer from one district to the other. Present case is not of such a nature. The transfer of the petitioner was ordered by the respondents on administrative grounds. Petitioner was not



given an option neither was his consent obtained nor was he given an opportunity to agitate against the transfer orders. He, as a servant, followed the dictates of the powerful Government with no options available to him. He joined in District Ambala from Sirsa. Under those circumstances, petitioner cannot be deprived of his seniority from the date of his initial appointment. His cadre has been changed not on his volition but at the dictates and direction of the respondents. Accordingly, the claim of the petitioner for taking his date of appointment into consideration for fixing his seniority in the district cadre at Ambala and thereafter in Yamuna Nagar where presently he is posted after the bifurcation of the District Ambala into Districts Ambala and Yamuna Nagar, is fully justified. His right of claim of seniority cannot be obliterated by an act, over which he had no control and he had no option but to comply with the dictates of the mighty State.

In these circumstances, the present writ petition is allowed. A direction is issued to the respondents to fix the seniority of the petitioner in District Yamuna Nagar taking his initial date of appointment to be his date of joining the cadre in Yamuna Nagar i.e. 19.12.1984. Petitioner shall also be entitled to all consequential benefits, which may flow from granting him the correct seniority as per the directions issued by this Court. The consequential benefits, if any, for which the petitioner is held entitled to now, be granted to him within a period of three months from the date of receipt of certified copy of this order.”

4. Relying upon the aforesaid, the respondents themselves in the case of one Ram Charan, who was also working as a Patwari but had not been granted the benefit of seniority from the date of joining, on the same premise as of the present case, was given the benefit of promotion from 28.11.1984 vide order dated 20.07.2017, the relevant paras whereof read thus:

“Since the Cadre of the Patwari happens to be District wise. Therefore, in case any Patwari join his duties at any other District after transfer, his seniority is considered from the date of joining at new District. Therefore, seniority to Sh. Ramcharan was given from the date of his joining in District Kurukshetra. Thereafter, upon allocating Kaithal District his seniority was considered as correct and on this basis promotion was granted to him as Kanungo. Keeping in view of above the representation of Sh. Ramcharan dated 13.03.2014 after consideration was filed vide reminder of Directorate Sr. No. 11963 dated 02.09.15.



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Against the above mentioned orders of Director Land Records, Haryana, Sh. Ramcharan has submitted representation to this office on dated 11.12.2015 and requested for granting benefit of seniority in respect of services performed at District and Rohtak, also requested that prior to taking final decision upon his application and representation an opportunity of personal hearing may also be afforded to him.

Whereby the Government vide letter dated 06.01.2016 asked the Director, Land Records Haryana for above sending mentioned representation of Sh. Ram Charan Kanungo along with their remarks and recommendation. Director Land Records, Haryana vide letter dated 16.03.2016 while sending their remarks and finding no merits stated that same is liable to be filed.

Sh. Ramcharan, Kanungo in connection to his representation dated 11.12.2015 he was heard personally examination of on dated 24.05.201. Upon the record submitted by concerned offices, it transpired that selection of Sh. Ramcharan was made as Patwari in the year 1984 and he was allotted District Rohtak and he was appointed in District Rohtak on dated 28.11.1984. Thereafter, vide reminder issued by Director, Land records, Haryana Sr. No. S-2/T/14636-37 dated 16.10.1985 his transfer was made from Rohtak to District Kurukshetra and Sh. Ramcharan joined on the post of Patwari at Kurukshetra on dated 24.04.1986.

But it is nowhere clear from above mentioned orders of Director that these orders were passed upon the application filed by Sh. Ramcharan the then Patwari nor it is cleared from the record submitted by concerned offices that orders in respect of Sh. Ramcharam was passed upon his application by the Director from District Rohtak to District Kurukshetra. It appears that the Director has passed the orders No. S-2/T/14636-37 dated 16.10.1985 on Administrative basis.

Apart from that upon examination of record it transpired that in similar like case i.e. Civil Writ Petition No. 16618 of 2010 Suresh Kumar Versus State of Haryana the Hon'ble High Court has passed following orders on dated 27.04.2012:-

""In these circumstances, the present writ petition is allowed. A direction is issued to the respondents to fix the seniority of the petitioner in District Yamuna Nagar taking his initial date of appointment to be his date of joining the cadre in Yamuna Nagar i.e. 19.12.1984. Petitioner shall also be entitled to all consequential benefits, which may flow from granting him the correct seniority as per the directions issued by this Court. The consequential



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benefits, if any, for which the petitioner is held entitled to now, be granted to him within a period of three months from the date of receipt of certified copy of this order."

Therefore, as per the situation described the applicant and upon examination of record and keeping in view of the orders passed by Hon'ble High Court in Civil Writ Petition No. 16618 of 2010 titled as Suresh Kumar Versus State of Haryana, I Director General Land Record, Haryana while cancelling the orders dated 02.09.15, hereby pass the orders to grant benefit of promotion to Sh. Ramcharan Kanungo from the date of his joining as Patwari at Rohtak i.e. from dated 28.11.1984."

5. Learned State counsel makes a reference to the written statement and states that there was an implied consent that the petitioner opted to work in Kurukshetra, however, despite her best efforts was unable to controvert the factual position involved in the aforesaid cases or draw out any distinctive aspects in the aforementioned order and judgment or cite any contrary law.
6. In view of the above, the present petitions are disposed of in terms of the judgment in **Suresh Kumar** (supra).
7. A photocopy of this order be placed on the files of connected cases.

(AMAN CHAUDHARY)
JUDGE

06.11.2024
Hemant

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No