



LPA-2126-2017 (O&M)

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

CM -4664-LPA-2017 in/and
LPA-2126-2017 (O&M)
Date of Decision: 08.05.2024.

Bhupinder Singh ...Appellant

Vs.

Balwant Singh and others ...Respondents

CM-4688-LPA-2017 in/and
LPA-2135-2017 (O&M)

Balwant Singh ...Appellant

Vs.

Balwant Singh and others ...Respondents

CM-4405-LPA-2017
LPA-2019-2017 (O&M)

Shamsher Singh & Ors. ...Appellants

Vs.

Balwant Singh and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present Mr. Ashwani Talwar, Advocate for the appellant(s)
in LPA-2126-2017 and LPA-2019-2017.

Mr. Vikas Chatrath, Advocate,
Mr. Akshat Kalia, Advocate and
Ms. Sachit Katoch, Advocate for the appellant in LPA-2135-
2017

Ms. Tanisha Peshawaria, DAG, Haryana.

SANJEEV PRAKASH SHARMA, J.(Oral)



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CM -4664-LPA-2017

For the reasons mentioned in the application, the same is allowed and delay of 214 days in late filing of the appeal is condoned.

CM-4688-LPA-2017

For the reasons mentioned in the application, the same is allowed and delay of 213 days in late filing of the appeal is condoned.

CM-4405-LPA-2017

For the reasons mentioned in the application, the same is allowed and delay of 205 days in late filing of the appeal is condoned.

**LPA-2126-2017 (O&M),
LPA-2135-2017 (O&M) and
LPA-2019-2017 (O&M)**

1. Learned counsel for the appellants have taken this Court to the order passed by the learned Single Judge, wherein, the learned Single Judge, has allowed the writ petitions while making the following observations:-

“5) Perusal of rules of recruitment to the post of Clerk insofar as 20% promotional post of Clerk is concerned, it is evident that same would be filled up by two source of cadres i.e. Group 'C' employees who are getting lesser pay scale than that of Clerk and Group 'D' employees. Rule does not stipulate the 20% for each of the cadre mentioned in the rules. Therefore, the competent or promoting authority is required to prepare combined seniority list of Group 'C' employees who are getting lesser pay than that of Clerk and further they have to prepare combined seniority list of Group 'D' employees whose scale of pay is less than that of Clerk with reference to length of service.



Then they have to operate such one combined seniority list of Group 'C' and 'D' with reference to other eligibility qualification prescribed for the post namely passed in matriculation examination or its equivalent with 5 years experience either Group 'C' or Group 'D' post. The said exercise has not been done. Thus, there is a total violation in promoting or filling up of Clerk post from 1984 till date. Hence, the impugned order dated 2.9.2014 is set aside. The second respondent is directed to prepare combined seniority list consist of Group 'C' employees whose pay of scale is less than that of Clerk and Group 'D' employees together with reference to length of service of the persons in the respective group and then operate such consolidated seniority list during the period from 1984 till date. Between 1984 to this day large number of Group 'C' as well as Group 'D' employees were promoted to the post of Clerk within the 20% quota. Those promotions are required to be reviewed in view of the combined seniority list. If any Clerk is likely to be reverted pursuant to the review of promotion, in such an event, the second respondent is directed to issue a show cause notice to such of those Clerks and obtain their reply and proceed further. The above exercise shall be completed by the second respondent within a period of six months from today.”

2. Learned counsel submit that the course directed to be followed for preparing a combined seniority list of Group – C and D would amount to changing the rules and there are separate rules for Group – C and D



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employees. Even if there is a channel for promotion to the post of Clerk, the same has to be stipulated separately for Group – C and D and it cannot be a combined seniority list as suggested by the learned Single Judge.

3. Learned counsel for the State submits that although no appeal has been filed by the State, but they support the submissions of the appellant(s).

4. We find that the aforesaid course as directed by the learned Single Judge would amount to changing the rules itself. It is an admitted position that the Punjab Civil Veterinary Department Subordinate Service Rules, 1933, would apply class-wise namely Group ‘C’ and ‘D’ separately.

5. In view thereof, if promotion is made from group ‘D’ employees, the seniority list of group ‘D’ employees would be prepared separately and that of group ‘C’ employees separately, and thereafter, promotions would be made accordingly. Claim of the writ petitioners, therefore, found to be wholly misconceived. The order passed by the learned Single Judge would not be acceptable.

6. It is also noticed that so far as the appellants are concerned, they were already promoted to higher posts and in fact, appellant Bhupinder Singh had already superannuated. It is settled law that rules have to be interpreted in a manner that it should not create administrative chaos. The Hon’ble Supreme Court in the case of Managing Director, ECIL, Hyderabad vs. B. Karunakar 1994 AIR (SC) 1074, has held as under:-

“It is now well settled that the courts can make the law laid down by them prospective in operation to prevent unsettlement of the settled positions, to prevent administrative chaos and to



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meet the ends of justice. In this connection, we may refer to some well-known decisions on the point.”

7. The interpretation as taken by the learned Single Judge, if implemented, would of course, create administrative chaos and persons who have already been promoted, will have to be disturbed without giving them an opportunity of hearing. Such a course cannot be adopted as vested rights are created in their favour.

8. In view thereto, the appeals are accepted and orders passed by the learned Single Judge are set aside. The writ petitions accordingly fail and dismissed.

9. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

08.05.2024.
rajesh

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