



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CM-20637-CWP-2024 in/&
CWP-8097-2022 (O&M)
Date of decision: 09.01.2025

Gurwinder Singh

....Petitioner

Versus

The State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Amit Mehta, Advocate for the petitioner

AMAN CHAUDHARY, J. (ORAL)

CM-20637-CWP-2024

Notice in the application.

Mr. Arun Gupta, DAG Punjab accepts notice on behalf of
respondent-State and has no objection to the prayer made in the application.

For the reasons mentioned in the application, the same is allowed.

Main case is taken on board today itself.

CWP-8097-2022 (O&M)

1. The prayer made in the present petition is for quashing/setting aside
the letter dated 01.10.2020 and order dated 31.03.2022, vide which respondent
No.5 has been promoted.

2. Learned counsel for the petitioner submits that his case is squarely
covered by the judgment of this Court in **Gurwinder Singh and Another vs.
State of Punjab and Others**, CWP-12435-2015, decided on 19.01.2023, which
the learned State counsel despite his best efforts, has not been able to controvert
the factual position and draw out any distinctive aspects in the aforementioned
judgment or cite any contrary law, relevant extract whereof reads thus:

“.... 14. On the one hand, the learned counsels



representing the petitioners have drawn the attention of the Court to Rule 20 of the 1994 Rules to contend that the 1961 Rules stand superseded because Rule 20 starts with a non-obstante provision. While relying upon the order passed in **Balwinder Singh's case** (supra), they contend that the 1994 Rules have been placed at a higher pedestal and shall result in superseding the 1961 Rules. It is, thereby, contended that the Stenographers and Steno Typists are not entitled to seek promotion to the posts of Senior Assistants.

15. On the other hand, the learned counsels representing the respondents, including the State Government, contend that Rule 20 of the 1994 Rules cannot supersede the 1961 Rules because the 1961 Rules are specific to the Department, whereas, the 1994 Rules are general in their nature and application. They rely upon the doctrine of *generaliaspecialibus non derogant*.

16. In the aforesaid circumstances, the questions noted in this beginning of the judgment arise. First of all, it is important to clarify that the order passed in **Balwinder Singh's case** (supra) relate to the employees engaged in the Department of Agriculture and does not cover the employees of the Punjab Soil and Water Conservation Department. In the Department of Soil and Water Conservation, the posts of Senior Scale Stenographers do not exist.

17. In the 2001 Rules, the State failed to provide any channel/avenues of promotion to the employees/officials who were working as Steno Typists and Stenographers in the Soil and Water Conservation Department. This led to the filing of the Civil Writ Petition no. 20485 of 2006 and ultimately, the 2001 Rules were quashed. In these circumstances, the Department has started applying 1961 Rules which provide for a proper channel of promotion for Clerks and Steno Typists working in the Department. Hence, the order passed in **Balwinder Singh's case** (supra) shall not be applicable to the facts of the present case.

18. The second argument of the learned counsel representing the petitioners is with reference to Rule 20 of the 1994 Rules. The same needs to be cautiously examined and interpreted. On a careful reading thereof, it is evident that the various special Rules notified by the specific Departments have not been entirely/completely superseded except to the extent specified in Rule 20. In other words, Rule 20 uses a non obstante provision to a limited extent. The 1994 Rules have been given an overriding effect over the specific Rules of the various Departments only for the limited purpose of regulating the recruitment and conditions of service for appointment to public service and posts in connection with the affairs of the State. In other words, the 1994 Rules are applicable in all the Departments of Punjab only with respect to regulating the recruitment and conditions of service for appointment to public



service and posts in connection with the affairs of the State. Moreover, the 1994 Rules, as is evident from the long title are relating to general and common conditions of service. These Rules do not deal with every aspect of service involved in various Departments of the State. Hence, the maxim of *generaliaspecialibus non derogant* shall be applicable to the facts of the present case.

19. While applying the interpretative tools, the Court is required to give meaning to each word used in the provision. On a plain and logical reading of Rule 20, it is evident that the State Government never intended to supersede the specific Rules which are peculiar to the situations arising in the individual Departments. Otherwise, the State Government could have stated that these Rules shall supersede the preexisting Rules applicable to the various Departments. It is evident that this was never the intention of the Government. It was for this reason that the Rule 1994 Rules were given an overriding effect only with respect to the situations which have been, explicitly, envisaged in the Rules, itself.

20. This aspect can be examined from yet another perspective. The Division Bench in **Piara Singh's case** (supra) quashed the 2001 rules vide judgment dated 11th December, 2012. At that time, the 1994 Rules were in existence, however, the State of Punjab did not claim that on account of the 1994 Rules, there was a channel/criteria for promotion for the incumbents working as Steno Typists and Stenographers in the Department of Soil and Water Conservation. In 2001, the writ petitions were defended only on the basis of the 2001 Rules, which were quashed and held to be illegal in the said judgments. The entire basis of the judgment passed in **Piara Singh's case** (supra) is to the effect that the officials working on the post of Steno Typists and Stenographers shall have the proper channels/avenues of promotion. If the argument of the learned counsel representing the petitioners is accepted, the judgment passed in **Piara Singh's case** (supra) would be rendered ineffective.

21. In view of the foregoing discussion, the conclusion is inevitable. Consequently, it is declared that Rule 20 of the 1994 Rules has a limited over-riding effect on 1961 Rules with respect to regulating the recruitment and conditions of service for appointment to public service and posts held under the State. Secondly, in view of the judgment passed in **Piara Singh's case** (supra) the 1961 Rules shall continue to operate till these are repealed or substituted in the future by the Legislature or the Government in the exercise of the powers of delegated legislation.

22. Keeping in view the aforesaid facts, CWP No. 14575 of 2015 filed by the petitioners and CWP 12435 of 2015 challenging the seniority list dated 21st May, 2015 shall stand dismissed. Similarly, CWP No. 19150 of 2022 seeking a writ



of Mandamus to direct the respondents to prepare and notify a separate seniority list of Clerks shall also stand dismissed. The COCP No. 1179 of 2022 filed by the StenoTypists and Stenographers shall stand disposed of with a direction to the respondents to forthwith implement the directions dated 23.04.2015 issued in **Darshan Singh’s case** (supra).”

3. Disposed of in terms of **Gurwinider Singh** (supra).

(AMAN CHAUDHARY)
JUDGE

09.01.2025
M.Kamra

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