

CM-10738-CWP-2025 in/and
CWP No. 13049 of 2024

2025:PHHC:095729



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(105+257)

CM-10738-CWP-2025 in/and
CWP No. 13049 of 2024
Date of Decision : 30.07.2025

Jeevanjot Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Manu K. Bhandari, Advocate with
(Joined through Video Conferencing)
Mr. Rohit Kataria, Advocate and
Mr. Arjun Sawhni, Advocate for the petitioner.

Mr. Kanav Singla, A.A.G., Punjab.

Ms. Monica Chhibber Sharma, Advocate with
Mr. Adeep Sharma, Advocate
for respondent No. 2-PUDA.

Harsimran Singh Sethi J. (Oral)

CM-10738-CWP-2025

Present application has been filed for placing on record
replication to the written statement filed on behalf of respondents No. 1 and
3.

Application is allowed and replication to the written statement
filed on behalf of respondents No. 1 and 3 is taken on record with all just
exceptions.



CWP No. 13049 of 2024

1. In the present petition, the challenge is to the order dated 18.03.2024 (Annexure P-20) whereby the request of the petitioner to continue in Water Resources Department has been declined.

2. Certain facts need to be mentioned for the correct appreciation of the issue in hand.

3. The petitioner competed for the post of Sub Divisional Engineer (Civil) as advertised by the respondents. After being selected, keeping in view his option given for preference of Departments, the petitioner was given appointment in the Department of Water Resources, where petitioner joined on 20.05.2023 in pursuance to the appointment letter dated 09.05.2022.

4. While the petitioner was working in the Department of Water Resources, certain posts of the same selection process could not be filled up in another department, namely, PUDA i.e. respondent No. 2 and keeping in view the preference option given by the petitioner at the time of filing application, he was 'upgraded' to the Department of PUDA and he was given appointment as Sub Divisional Engineer (Civil) in the Department of PUDA in the 3rd round of counselling, which was held on 10.05.2023.

5. As the petitioner was already working in the Department of Water Resources, he sought extension for joining the Department of PUDA and ultimately, keeping in view the impugned order i.e. 18.03.2024 (Annexure P-20), the petitioner was relieved from the Department of Water



Resources so as to join PUDA, which he did on 19.03.2024 and is working in PUDA as Sub Divisional Engineer (Civil) as of now.

6. The grievance of the petitioner is that though, the petitioner joined the Department of Water Resources on 20.05.2022 in pursuance to his selection on 09.05.2022, but he was asked to be relieved from the Department of Water Resources mandatorily despite the fact that the petitioner never wanted to join PUDA as the petitioner was being told that he will only get seniority in PUDA from the date he joins and not from the date he was actually joined in the Department of Water Resources though, the appointment in PUDA was only by way of 'upgradation' of his merit keeping in view the vacancy therein. The said action of the respondents is under challenge in the present petition.

7. Learned counsel for the petitioner argues that either the petitioner should have been allowed to continue in the Department of Water Resources so that petitioner does not suffer any loss in seniority or in case, he has been mandatorily transferred to the Department of PUDA upon 'upgradation', he should be given seniority from the date he had joined the Department of Water Resources keeping in view the fact that the petitioner had joined the said post on the basis of the same selection and the same merit and the merit cannot be disturbed hence, the petitioner has to be given the seniority according to the merit he had obtained in the selection process after his appointment in PUDA.

8. Learned counsel for respondent No. 2-PUDA submits that once, the petitioner took four months time to join PUDA, his claim for seniority as



per merit is incorrect and he is only entitled for the seniority from the date he joined the PUDA.

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

10. It may be noticed that a common selection process in various Departments was conducted by the State of Punjab for the post of Sub Divisional Engineer (Civil). After a joint merit was prepared keeping in view the competitive examination held, the options were asked from the selected candidates qua the preference of Department where they want to be posted. The petitioner had also given certain options. Keeping in view the option given coupled with merit and the availability of vacancy in the Department, the petitioner was appointed on 09.05.2022 in the Department of Water Resources, where he joined on 20.05.2023.

11. Keeping in view the fact that certain posts in the Department of PUDA remained vacant and the petitioner had also given an option for PUDA, without seeking his comments, mandatorily, the petitioner was 'upgraded' from the Department of Water Resources to that of PUDA and the petitioner was asked to join there in pursuance to the said so called 'upgradation' keeping in view the option given by the petitioner for appointment.

12. As the petitioner was fearing that his seniority will be lost, he declined to go to the PUDA but was, mandatorily relieved by the Department of Water Resources vide impugned order dated 18.03.2024 (Annexure P-20) so as to join PUDA and having no other option, the petitioner joined as such.



13. Now, the question which arise is whether, the petitioner should be sent back to join in the Department of Water Resources or he should be allowed to continue in PUDA with the seniority above the candidate, who was lesser meritorious than the petitioner in the joint merit list and was also appointed in the same selection in PUDA.

15. With regard to allowing the petitioner to continue in the Department of Water Resources, learned counsel for the State submits that after the petitioner was relieved by impugned order dated 18.03.2024 (Annexure P-20), as there was no interim order, another candidate who was also selected in the same selection, has already been appointed in the Department of Water Resources and is performing the duties for the last approximately two years and as he is not a party, in case the petitioner is sent back to the Department of Water Resources, the said candidate will suffer despite not being the party to the present petition hence, the petitioner cannot be sent back to Department of Water Resources.

16. The said argument is valid. Once, the post which was vacated by the petitioner after the impugned order dated 18.03.2024 (Annexure P-20) was passed, has already been occupied by another candidate of the same selection and the said candidate is working for the last two years, dislodging the said candidate, especially when, he/she is not a party, will not be permissible, hence, the request of the petitioner of sending him back to the Department of Water Resources is declined.

17. The next question whether, the petitioner is entitled for seniority over the candidate who is less meritorious than the petitioner in the joint



merit list as, the selection was the same in pursuance to which the petitioner has been ‘upgraded’ from the Department of Water Resources to that of PUDA. Once, the candidates who were appointed in the Department of Water Resources as well as in PUDA competed through the same selection process for the same post and there was a joint merit list of all the candidates, the petitioner who has been ‘upgraded’ from the Department of Water Resources to that of PUDA, he cannot loose his seniority and be declared junior to a person who was less meritorious in the joint merit list but was appointed in the Department of PUDA prior to the date the petitioner joined.

18. It is a settled principle of law that where there is a direct recruitment, the merit has to prevail for determining the seniority of the candidates. Further, the petitioner never wanted the ‘upgradation’ from the Department of Water Resources to that of PUDA but was compulsorily sent without even participating in the 3rd counselling where he was allocated to be appointed in PUDA. Once, the petitioner was compulsorily sent to the Department of PUDA, he cannot be caused prejudice to loose seniority for the period he has worked with the Department of Water Resources.

19. Keeping in view the totality of the circumstances, once the petitioner has joined the Department of PUDA and is working for the last approximately more than one year, the respondent No. 2-PUDA is directed to fix the seniority of the petitioner in the Cadre of Sub Divisional Engineer (Civil) over and above the candidate, who is immediately lesser in merit in joint merit list, the selection process in which the petitioner as well as such



candidate competed to be appointed as Sub Divisional Engineer. Service rendered by the petitioner in Department of Water Resources, Punjab will be counted as a valid service for all intents and purposes.

20. Present petition is allowed in above terms.

21. Pending miscellaneous application, if any, also stands disposed of.

July 30, 2025
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No