



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

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**CWP-18828-2018 (O&M)
Date of decision: 13.02.2025**

Raja Ram and others

...Petitioners

VERSUS

State of Haryana and others

...Respondents

205-A

**CWP-2867-2020 (O&M)
Date of decision: 13.02.2025**

Randhir Singh

...Petitioner

VERSUS

State of Haryana and others

...Respondents

205-B

**CWP-20896-2020 (O&M)
Date of decision: 13.02.2025**

Sant Raj

...Petitioners

VERSUS

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. R.K. Malik, Sr. Advocate with
Mr. Vijay Vardhan, Advocate and
Mr. Kartikey Choudhary, Advocate for the petitioners
in CWP-18828-2018.

None for the petitioner(s) in
CWP-2867-2020 and CWP-20896-2020.

Mr. Praveen Chander Goyal, Addl. AG Haryana.

Mr. Keshav Pratap Singh, Advocate and
Mr. Vikas Kumar Sharma, Advocate
for respondents No.4, 6 and 8 in CWP-18828-2018.

**VINOD S. BHARDWAJ, J. (Oral)**

1. Involving identical issue(s), these three writ petitions are being decided by a common judgment.
2. The question that arises for consideration before this Court is as to whether the seniority of a Patwari is to be drawn in accordance with the merit list as recommended by the Subordinate Services Selection Board or has to be determined on the basis of length of service in respect of employees recommended in the same select list.
3. For the facility of reference, facts are, however, being extracted from **CWP-18828-2018** titled as '**Raja Ram and others vs. State of Haryana and others**'.
4. Challenging the orders dated 25.06.2018 and 18.07.2018 whereby the private respondents No.4 to 8 have been promoted as **Kanungos** superseding the seniority of the petitioner shown in the tentative seniority list dated 02.08.2017. A further prayer has been made that the petitioners should be considered for promotion and disburse all consequential benefits from the date when the juniors have been promoted.
5. Learned senior counsel appearing on behalf of the petitioners contends that the petitioners as well as the private respondents were recommended by the Subordinate Services Selection Board in the same batch as *Revenue Patwaris* and they joined on 10.06.1997 and 23.10.1997 respectively. Even though the private respondents were selected in the same selection list, however, they were offered appointment by the respondent-



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department prior in point of time. He submits that the services of *Patwaris* are governed by statutory Rules i.e. ***The Haryana Revenue Patwaris (Group-C) Service Rules, 1981*** (hereinafter referred to as '***the Rules of 1981***'). Seniority is to be determined by Rule 15 thereof, which reads as under:-

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

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 members appointed by direct recruitment, the order of merit determined by the Board, shall not be disturbed in fixing the seniority:

Provided further that in the case of two or more members 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 the case of members appointed by promotion or by*



transfer, seniority shall be determined according to the seniority of such members in the appointments from which they were promoted or transferred; and

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

6. He submits that the Department had issued a tentative seniority list, on the basis of date(s) of joining but the seniority list was never finalized. The petitioners as well as other similarly situated *Patwaris* submitted representations for determination of the seniority as per the statutory Rules which were hence considered by the respondents and a tentative seniority list was circulated vide letter dated 02.08.2017 wherein the petitioners were shown at Sr. No.17, 10 and 11 respectively while the private respondents No.4 to 8 were shown at Sr. No. 35, 26, 42, 53 and 28 respectively. He further contends that a *Revenue Patwari* who has qualified the *Kanungo* examination is entitled for promotion to the said post. The petitioners cleared the said examination in the year 2010, 2013 and 2015



respectively and no adverse report of any nature whatsoever had ever been conveyed to the petitioners. Hence, the petitioners were eligible for such promotion fulfilling the qualification and eligibility criteria for promotion to the post of *Kanungo*. The official respondents, however, promoted the private respondents No.4 to 8 vide order dated 18.07.2018 notwithstanding that in the tentative seniority list, the petitioners were senior to the private respondents. The tentative seniority list was completely ignored by the official respondents.

7. Learned senior counsel further submits that the aforesaid controversy has already been settled in his favour by this Court in a batch of writ petitions decided on **08.07.2019** with **CWP-16334-2012** titled as '**Anil Kumar Vs. State of Haryana and others**' as the lead case.

8. Responding to the above, learned State counsel refers to the written statement filed by the Deputy Commissioner, Kaithal on behalf of respondents No.1 to 3 in CWP-18828-2018, and submits that the seniority list has been drawn on the basis of length of service as prescribed under Rule 15 of the Rules of 1981 and that undisputedly, the private respondents had joined prior to the petitioners i.e. on 05.06.1997, hence, taking into consideration the length of service they were promoted to the post of *Kanungo*.

9. Learned counsel appearing on behalf of the private respondents on the other hand contends that the earlier seniority list dated 25.10.2002 showed the petitioners to be higher in seniority and that the petitioners have



filed the instant writ petition after a huge delay. A settled seniority thus cannot be permitted to be revisited again. The present writ petition accordingly deserves to be dismissed on the ground of delay and laches. Reliance is placed by him on the judgment of the Hon'ble Supreme Court in the matter of ***Shiba Shankar Mohapatra & ors. Vs. State of Orissa and ors.*** reported as ***2010 (12) SCC 471*** to substantiate the above argument. He further submits that petitioner No.3 had since been transferred to another District as such, his seniority has to be re-drawn. He further contends that the order whereby the objections of the petitioners were dismissed have not been challenged in the present writ petition.

10. Responding to the above, learned senior counsel appearing on behalf of the petitioners contends that the said order dated 25.06.2018 whereby their objections were dismissed is in fact a subject matter of challenge in the present writ petition.

11. With respect to the plea of delay and laches, it is contended that the earlier seniority list that was finalized on 25.10.2002 was re-considered by the respondent-authorities themselves on the representation(s) submitted by the petitioners and it was under the said circumstances that the tentative seniority list was circulated in 2017 showing acceptance of the objections raised by the petitioners. Hence, there was no occasion for the petitioners to raise a challenge to the earlier seniority list dated 25.10.2002 when the respondent-authorities themselves revisited the said seniority list. The grievance would thus come into place only after rejection of the



representation(s) submitted by the petitioners and re-fixation of the seniority as per the seniority list dated 25.10.2002. Hence, the judgment of the Hon'ble Supreme Court in the matter of ***Shiba Shankar Mohapatra (supra)*** would not be applicable to the facts of instant case, since the writ petition had been filed in quick succession to the rejection of the representation(s) of the petitioners vide order dated 25.06.2018.

12. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents available on record with their able assistance.

13. It is not in dispute that the petitioners as well as the private respondents were recommended by the erstwhile Subordinate Services Selection Board in a common selection list. While the private respondent joined on 05.06.1997, the petitioners joined the service on 10.06.1997 and 23.10.1997 respectively. The issue of seniority is governed by the Rules of 1981 as per which even though the seniority is to be determined by the length of continuous service on any post in the service, however, the proviso thereof provides that in the case of members appointed by direct recruitment, the order of merit determined by the Board, shall not be disturbed in fixing the seniority. The said aspect of fixation of seniority in relation to the *Patwaris* was examined by this Court in the matter of ***Anil Kumar (supra)*** vide judgment dated 08.07.2019. On consideration of the Rules governing the determination of seniority of the *Patwaris*, this Court specifically ruled that the proviso cannot be ignored and a mere length of service in relation to



member appointed by a direct recruitment through the same seniority list cannot be the basis for interfering in the merit list that had been recommended by the Board. The operative part of the judgment reads thus:-

“18. Even assuming two different principles are being followed, even then the question is what is the Rule position and what does it mean when selection comes from the Board/Commission and successful candidates are sent to Patwari training for 1½ years without salary and on completion of the qualifying test, appointments come from the Director.

19. To begin with, the Director sends a requisition to the Board/Commission for selection of candidates. It shall recommend to the Director such number of candidates for patwari training in a patwari training school as may the Director specify in the requisition. The Director will maintain a list of “pass candidates”, which means those who have passed the patwari training. From this list, the Director will deploy candidates on requisition received from the Collector/s and names will be recommended to the different Collector/s for appointment. Rule 1 lays down the order in which the recommendations are made from amongst patwari pass candidates, which shall be made in the order in which their names appear in the merit list maintained by the Director.



This merit list is the merit list sent by the Board/Commission. There is no provision in the Rules that at the time of patwari training, a competitive examination be held to determine inter se merit. I would, therefore, agree with the State that the patwari training is only of qualifying nature and would not change the order of merit determined by the Board/Commission. This view is sanctified by Rule 15, which deals with seniority and provides that in case of members appointed by direct recruitment, the order of merit determined by the Board, shall not be disturbed in fixing the seniority. The direct recruitment has already taken place with the merit list prepared by the Board. Appointment is postponed to fulfill the condition of passing patwari training. Once that happens successfully, then after weeding out unsuccessful candidates, the final list would come into existence.

20. *In case vacancy is available in a district, appointment can be made from the list without waiting for failed candidate to qualify patwari training and in case he does, he will be relegated in the seniority to the one earlier appointed. However, if a candidate has completed patwari training successfully, but vacancy is not available in the district, then in case batchmate qualifies patwari training meanwhile, the seniority position determined by the Board*



shall remain unaltered and subsequent passing will have no effect in such a case.

21. *The petitioner/s believe/s that merit list maintained by the Director under Rule 11 is the merit list which supersedes the merit list prepared by the Board. Rules 11 & 15 have to be read together in determining seniority, while Rule 11 speaks of merit list ‘maintained’ by the Director. The seniority Rule 15 in its second proviso mandates merit ‘determined by the Board’. It thus becomes clear that merit determined by the Board is maintained by the Director to offer appointments from successful candidates who have completed patwari training. Therefore, the merit determined by the Board will prevail over all other considerations as far as seniority is concerned. It is accordingly held that seniority of patwaris has to be maintained in terms of Rule 15 of the 1981 Rules.*

22. *It is no argument to advance that in this scenario seniority would count only from the date when patwari training candidates became members of the service without detracting from the settled principles on which the petitioner emphasize that no person can claim seniority over others, who are already in the cadre. There can be no dispute with the proposition in the judgments cited by Mr. Patwalia in Ashok*



Kumar Shrivastava & others Vs. Ram Lal & others, (2008) 3 SCC 148; Partap Singh Malik & another Vs. State of Haryana & others, 1995 (4) RSJ 873; Kuljit Paul Singh Mahi & others Vs. State of Punjab & others (CWP No.16073 of 2016 decided on 13.07.2018); Ashok Kumar Manju & others Vs. KCCB Limited & others, 2018 (3) PLR 750; State of Haryana & others Vs. Surindra Kumar Mishra & others, 2012 (1) RSJ 510; Sales Tax Commissioner etc. Vs. B.G.Patal etc. (2006) 1 SCC 615 and Haryana State Cooperative Land Development Bank Ltd. Vs. Haryana State Cooperative Land Development Bank Employees Union & another, (2004) 1 SCC 574. However, in none of those cases has the peculiar situation in this case arisen in the setting of the Rules been considered, where selection is followed by training without appointment and on successful completion of training, appointments are offered and on joining candidates become members of the service. As long as Rule 15 stands, there can be only one acceptable interpretation and the view expressed in the affidavit by the State appears to me to be in consonance with the Rule position and nothing said therein amounts to a falsity or suffers the vile of perjury. If there has been any aberration in the past in following the merit list of the Director that would not alter the legal position when Rule



15 categorically mandates that merit determined by the Board shall not be disturbed. The Director only “maintains” that merit list and offers appointments from the successful names by weeding out those who fail to pass the patwari training in the first attempt with a right to appear again. If they qualify in subsequent chances, then the position is, as explained above, with consequential loss of seniority.”

14. It is evident from a perusal of the above that this Court has already held that the merit determined by the Board will prevail over all other considerations as far as seniority is concerned, and that the same has to be drawn in terms of the Rule 15 of the Rules of 1981. Undisputedly, the respondent-authorities have drawn the seniority from the date of joining by ignoring the merit list as prepared by the Haryana Subordinate Services Selection Board. Objections of the petitioners were thus dismissed by the respondents on 25.06.2018 without taking into consideration the Service Rules which prescribe the manner of drawing of seniority list.

15. Accordingly, the petitioners deserve to be considered for promotion w.e.f. the date when their juniors were promoted. In so far as the petitioners who have either expired or stand superannuated, their claim shall be considered by the official respondents from the same date and benefits as are notionally admissible to them shall be released to them.

16. It is not the case of the respondents that even though offer of appointment was made at the same time but the petitioners delayed joining



at their own level and for no valid cause. Rather, the respondents followed an arbitrary process of offering appointment at their whims. If State is granted liberty to tinker with the merit as recommended by the selecting agency, solely by the date of joining, the authorities would acquire immense power of mischief and to disrupt the entire seniority as recommended by the recruitment agency by choosing to issue appointment at will and to offer appointment at their own whims and caprices. It was solely with an intent to check misuse of such unbridled arbitrariness that much significance is attached to the merit list as recommended by the Commission/Board.

17. In so far as the contention of the learned counsel appearing on behalf of the private respondents that petitioner No.3 had been transferred from District Kaithal to Kurukshetra is concerned, the said transfer had taken place after the determination of seniority and promotion of the juniors and thus, would have no bearing in so far as the rights that had accrued in favour of petitioner No.3 prior to such transfer are concerned. The objection is hence rejected to the said extent.

18. The present writ petitions are accordingly **allowed** in terms of reasons given in the order dated **08.07.2019** passed by this Court in the matter of *Anil Kumar (supra) and other connected petitions*.

19. The official respondents are consequently directed to consider the claim of the petitioners and to grant the promotion with effect from the date of promotion of their juniors' alongwith all consequential benefits notionally from the said date and actually from the date of final promotion.



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The benefits including pension/family pension in respect to the petitioners (wherever applicable) shall be computed by the respondent-authorities within a period of 02 months from the date of receipt of certified copy of this order and shall be disbursed to the petitioners/LRs within a further period of 02 months.

20. In case the needful is not done by the respondent-authorities within the above prescribed time-line, the petitioners/LRs shall be entitled to interest on the delayed release of dues @6% per annum from the date when it fell due till its actual disbursement. The increased financial liability on account of interest may be recovered from the erring officials.

21. All pending civil misc. application(s), if any, stand disposed of.

(VINOD S. BHARDWAJ)
JUDGE

13.02.2025*Mangal Singh*

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