



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

101+201

CWP-26886-2016 (O&M)

Date of Decision: 13.08.2025

Dr. Ritu Pradhan

....Petitioner

Versus

Secretary Education, U.T. Secretariat, Chandigarh and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Ravi Kant Sharma, Advocate and
Mr. Himanshu Sharma, Advocate
for the petitioner.

Ms. Sukhmani Patwalia, Advocate and
Ms. Hakikat Grewal, Advocate
for respondents No.1 and 2 – U.T. Chandigarh.

Mr. S.S.Pathania, Advocate
for respondent No.4 – CAT (through V.C).

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the order passed by the Central Administrative Tribunal (hereinafter referred to as 'the Tribunal') dated 14.09.2016 (Annexure P-23) by which, the prayer of the petitioner for refixing the seniority as being granted to respondent No.4 – Mrs. Chhaya Verma from 12.07.2002 as the deemed date of appointment as per the UPSC recommendation so as to make her senior to the petitioner, got rejected which



is causing prejudice to her.

2. It is pertinent to mention here that certain facts are required to be noticed for the correct appreciation of the issue in question.

3. Respondent No.4 – Mrs. Chhaya Verma competed for the post of Lecturer in the subject of Clothing and Textile in the reserved category of Other Backward Class (OBC) as advertised by the UPSC. She was selected and recommended for appointment by the Union Public Service Commission (UPSC) on 12.07.2002. Keeping in view the fact that Mrs. Chhaya Verma was having an OBC certificate from the other State than the one issued by the Chandigarh Administration, her appointment order was not processed before deciding whether she is to be treated eligible to be appointed under the reserved category of Other Backward Class.

4. Similarly, the petitioner also competed for the post of Lecturer in Food and Nutrition and her recommendation was also made by the UPSC on 04.09.2002 i.e. after Mrs. Chhaya Verma (respondent No.4 herein) and as the petitioner was competing in the General category, there was no question asked and she was issued the appointment letter and joined her duties on 27.11.2002.

5. As the decision with regard to the appointment of Mrs. Chhaya Verma was yet to be taken, the similar issue as to whether the OBC certificate issued in favour of the candidate by the other State and not by Chandigarh Administration will be admissible also arose with regard to the selection to the post of Lecturers to be appointed in the Government Medical College and Hospital, Sector-32, Chandigarh. An Original Application No.374/CH/2003 titled ***Dr. Pratiksha Gupta and others vs. Union of India and others***, was filed by the candidates who were selected but were not being appointed on the



ground that their OBC certificate was from another State, wherein a direction was given by the Central Administrative Tribunal, that the SC/OBC candidates who have been selected but are having the said certificate issued by the other State and not by Chandigarh Administration are to be treated as eligible. The said decision of the Tribunal was taken before the Hon'ble Supreme Court of India in Civil Appeal No.4684 of 2001 titled ***Chandigarh Administration vs. Surinder Kumar and others***, and ultimately, the judgment of the Tribunal in ***Dr. Pratiksha Gupta's case (supra)***, was affirmed so as to hold that the SC/OBC candidates who are having the certificates from the other State are eligible for appointment in the Chandigarh Administration.

6. Keeping in view the aforesaid decision in ***Dr. Pratiksha Gupta's case (supra)***, the Chandigarh Administration decided to give the appointments to all the concerned, whose selections had already been cleared but appointments were not given due to the said issue as raised of consideration of the SC/OBC candidates having certificate from other States. The Lecturers in the Government Medical College and Hospital, Sector 32, Chandigarh were also appointed and they were given the benefit of appointment from the date, their recommendations were received from the UPSC and the similar relief was also granted to respondent No.4 – Mrs. Chhaya Verma in the present case.

7. Ultimately, an order dated 04.11.2009 was circulated on 12.11.2009 giving the benefits of seniority, increments, pension, gratuity, GPF, GIS etc. from the date the recommendations by the UPSC had been given to respondent No.4 and other Lecturers, who were similarly situated and were to be appointed in the Government Medical College and Hospital, Sector 32, Chandigarh.



8. Upon the grant of said benefit, the petitioner herein raised a protest that once she has already joined the service in pursuance to her recommendation on 27.11.2002 as Lecturer (Food and Nutrition) whereas, the actual appointment of Ms. Chhaya Verma was on 02.01.2004, on the basis of the continuous length of service which is the Rule governing the service, Mrs. Chhaya Verma (respondent No.4 herein) cannot be treated as senior to the petitioner in any circumstances. The further objection raised was that after the appointment of Mrs. Chhaya Verma (respondent No.4 herein) in 2004, a seniority list was issued on 01.10.2007 wherein, the name of the petitioner was shown at No.21 over Mrs. Chhaya Verma, who was shown to be at No.25 as she joined more than one year after the date of joining of the petitioner and therefore, the said seniority list could not be disturbed.

9. As, the respondent-Chandigarh Administration did not accept the said objections, the petitioner approached the Tribunal for the redressal of her grievances by filing the Original Application No.779/CH/2012 which was disposed of on 20.03.2013 with direction to decide seniority in 7 days and further it was decided by respondent on 31.07.2014 by declaring the seniority of Mr. Chhaya Verma above the petitioner and the said order was again challenged by way of Application No.060/00728/2014 which was filed in the year 2014, came to be decided on 14.09.2016. The Tribunal after appreciating the facts, the Rule governing the service and the judgment in **Dr. Pratiksha Gupta's** case (supra), declined the benefit of seniority to the petitioner over and above Mrs. Chhaya Verma, which judgment dated 14.09.2016 has been impugned in the present writ petition.

10. Learned counsel appearing on behalf of the petitioner argues that



keeping in view the Rule governing the service i.e. Rule 8 of the Punjab Civil Services (General and Common Conditions of Service), Rules, 1994 (hereinafter for short to be referred as 'the 1994 Rules'), the seniority can only be given qua the continuous length of service in the Cadre and therefore, once the petitioner was appointed on 27.11.2002 a post prior to respondent No.4, who was appointed on 02.01.2004 the petitioner cannot be declared junior to respondent No.4 on the total length of service of the petitioner as compared to the total length of service of respondent No.4 and therefore, grant of seniority to the respondent No.4 is contrary to Rule 8 of the 1994 Rules, which has not been appreciated by the Tribunal in the correct prospective and therefore, the judgment of the Tribunal dated 14.09.2016 (Annexure P-23) should be set aside.

11. Learned counsel for the petitioner also places reliance upon the judgment of the Hon'ble Supreme Court of India in Civil Appeal No.3767 of 2010 decided on 28.09.2021 titled ***State of Bihar and others vs. Arbind Jee***, to contend that the seniority cannot be given with retrospective effect from the date when even the employee was not borne in the Cadre so as to say that as respondent No.4 was appointed in January, 2004, she cannot be given seniority from the year 2002 i.e. from the date when she was not borne in the Cadre. The further reliance is being placed upon the judgment of the Hon'ble Supreme Court of India in Civil Appeal No.7002 of 2004 decided on 09.08.2011 titled ***D.P.Das vs. Union of India and others***, to hold that the seniority has to be determined on the basis of some principle which are just and fair and in the present case, the 1994 Rules when prescribed the seniority to be fixed on the basis of the total length of service ignoring the same, is



contrary to the law and therefore, the order passed by the Tribunal upholding the grant of seniority to respondent No.4 may kindly be set aside.

12. Upon notice of motion, the respondents have appeared and defended not only the grant of seniority to respondent No.4 from the date of recommendation by UPSC but also the order of the Tribunal dated 14.09.2016 (Annexure P-23) that the same is in accordance with the facts and the 1994 Rules governing the issue as well as the settled principle of law.

13. Learned counsel appearing on behalf of respondent-Chandigarh Administration submits that in the present case, the recommendation of respondent No.4 for appointment as a Lecturer in Government Home Science College, Sector 10, Chandigarh, were received on 12.07.2002 but, as there was some issue whether respondent No.4 is eligible to be considered under the category of OBC, the appointment order could not be issued but after the said issue was settled upto the Hon'ble Supreme Court of India holding that OBC candidates having such certificates from the other State are eligible for appointment with the Chandigarh Administration, the benefit to all such withheld appointments was given from the due date of the recommendation of the Union Public Service Commission, hence, the grant of benefit to the respondent No.4 for appointment from 12.07.2002 is in accordance with law as well as the judgment in **Dr. Pratiksha Gupta's** case (supra), which has been upheld upto the Hon'ble Supreme Court of India.

14. Learned counsel for the respondent submits that similar issue had come up for consideration before this Court in LPA No.1504 of 2013 decided on 19.05.2017 titled **Navjeet Kaur vs. Navneet Walia and others**, which also involved somewhat similar circumstances as well as the interpretation of the



same Rule 8 of the 1994 Rules, and after considering the same, the Division Bench held that any denial of appointment to an eligible candidate from the due date so as to make such candidate junior to a person whose recommendation came at a later point of time will be travesty of justice and while interpreting the Rule 8 of the 1994 Rules, the benefit of appointment to such candidates from the date of recommendations was upheld.

15. Learned counsel appearing on behalf of respondent No.4 submits that her recommendation came even before the recommendation of the petitioner i.e. on 12.07.2002 on the post in question hence, the objection being raised that the petitioner should be treated senior to respondent No.4 is incorrect as, the Chandigarh Administration did not grant the appointment at the relevant time by raising certain technical issues qua the OBC certificate in possession of respondent No.4, which issue was ultimately decided in favour of respondent No.4 by the Tribunal in case of the similarly situated personal and was upheld upto the Hon'ble Supreme Court of India and in order to do away the prejudice caused to respondent No.4 for not giving her appointment for a period of more than 17 months, the benefit of deemed appointment was granted from the date of recommendation by the UPSC as granted to the other similarly situated candidates and, therefore, the petitioner, whose recommendation had not even received up to the date when the recommendation of respondent No.4 was received, no grievance can be raised by the petitioner so as to claim seniority over and above the respondent No.4.

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

17. The first question which arises whether, the grant of benefit of



deemed appointment to respondent No.4 from the date of recommendation i.e. 12.07.2002 by the UPSC is incorrect?

18. It may be noticed that the said benefit has been granted to the respondent No.4 on the basis of the judgment rendered by the Central Administrative Tribunal in the case of **Dr. Pratiksha Gupta** (supra), wherein also the candidates belonging to the OBC category were not given appointment immediately upon receiving their recommendations from the UPSC on the ground that whether such candidates who have the OBC certificates from other State are to be treated eligible for appointment in the said category in Chandigarh Administration or not. The Central Administrative Tribunal held such candidates eligible for appointment and directed the grant of the benefits of appointment from the date of recommendations. The said order of the Tribunal was taken by the Chandigarh Administration before the Hon'ble Supreme Court of India in Civil Appeal No.4684 of 2001 Chandigarh Administration (supra) ultimately, the Hon'ble Supreme Court of India upheld the said order of the grant of appointment to such candidates from the date of recommendations by UPSC so as to avoid any prejudice to such candidates for not being granted appointment immediately upon the recommendations by the UPSC.

19. The Chandigarh Administration removed the grievance of such candidates by granting them retrospective appointment from the date of the recommendation from the UPSC but though on notional basis. That means, the appointment of such candidates relates back to the date of their recommendations by the UPSC. Hence, for all intents and purposes such candidates gets appointment from the date of recommendations by the UPSC



and therefore, respondent No.4 also gets the appointment as a Lecturer in Clothing and Textile from 12.07.2002.

20. Once, the said benefit has been granted to respondent No.4 – Mrs. Chhaya Verma, it is to be seen whether petitioner Dr. Ritu Pradhan whose recommendations by the UPSC were on 04.09.2002 and was appointed on 27.11.2002 can be treated as senior even on the basis of the length of seniority. A person who has been appointed w.e.f 12.07.2002 cannot be declared junior on the basis of length of seniority qua the petitioner who was recommended on 04.09.2002 and was appointed on 27.11.2002 which is after 12.07.2002 hence, the claim that the petitioner has a better length of service as compared to respondent No.4, is incorrect. By the grant of appointment from the date of recommendations on notional basis, for all intents and purposes except the back wages, the date of appointment of respondent No.4 has to be 12.07.2002 which is a date prior to the date of recommendations of the petitioner i.e. 04.09.2002 and her subsequent appointment on 27.11.2002 therefore, it cannot be said that even as per Rule 8 of the 1994 Rules, that the determination of the seniority is upon the total length of service, the total length of service of respondent No.4 is not more than the petitioner for all intents and purposes so as to decide the seniority between the two.

21. Further, it may be noticed that the same issue came up for consideration before the Division Bench of this Court in LPA No.1504 of 2013 (supra) and the same issue whether, a candidate whose recommendations were received from the competent authority but appointment was not made can be treated junior to a person whose recommendations were received later but the appointment was given at a prior point of time. The said issue was



dealt in light of Rule 8 of the 1994 Rules, which is also being relied by the petitioner in the present petition. After considering the said issue threadbare, the Division Bench of this Court held that where the candidate whose recommendations had come at a prior given point of time but without there being any disability suffered by such candidate, the appointment was not given up to the date when another candidate whose recommendations had come subsequently but was appointed at an earlier point of time, the earlier recommended candidate cannot be treated junior to a candidate recommended subsequently and grant of the benefit of appointment to such candidate from the date of recommendation by the UPSC, is preferably valid so as to mitigate the hardship suffered by the candidate whose recommendation had come prior to the candidate whose recommendation had come subsequently. The relevant paragraphs are as under:

“(20) Having heard learned counsel for the parties at a considerable length and after going through the record, we find that the following questions fall for determination in this appeal:-

- (i) Whether the appellant is entitled to rank senior to the first respondent on the plea that her name was recommended for appointment prior in time and she is not responsible for the delay caused in issuing appointment letter to her or that respondent No.1 is entitled to be placed above the appellant as he joined as Lecturer well before the appellant?*
- (ii) Whether seniority inter se between the appellant and the first respondent is to be determined as per Rule 8 of the 1994 Rules read with Appendix ‘B’ of 2001 Rules or in accordance with the Executive Instructions read with the general principles governing fixation of seniority?*



(iii) *Whether the appellant has been appointed as Lecturer against an ex-cadre post, and if so, whether she is ineligible for promotion to the post of Senior Lecturer (MOP) and Head of Department (MOP) under the provisions of 2001 Rules?*

(27) *There is a lot of rationality and logic behind the criteria evolved in these Instructions for assignment of seniority from the date of making recommendations by the Commission. It is a matter of common knowledge that there are numerous posts, especially in teaching cadres, for which separate selection processes are conducted keeping in view the academic/professional qualifications, nature of experience, duties and responsibilities. Such distinct posts are eventually amalgamated in a common pool so that a workable common seniority can be prepared for the purpose of promotion to higher posts.*

(27-A) *The process of making appointment, after the recommendations are received from the recruiting agency, is undoubtedly a ministerial exercise. Such process involves verification of antecedents, medical examination and several other formalities. The completion of these processes is not within the hands of a selected candidate. The candidate who is at No.1 in the order of merit in the very first selection list might be residing at a far off remote place and in that case the police authorities shall take more time in verifying the character and antecedents as compared to a candidate who is the lowest in merit of the last selection list but is resident of a nearby area. It is obvious that the latter candidate will secure appointment earlier than the former. It may thus lead to totally iniquitous and unjust consequences if their common seniority inter se is determined based upon the dates of their joining. It is with a view to avoid such like arbitrary, fortuitous and incidental consequences that the State Government issued the Executive*



Instructions dated 24.11.1962 which are still in vogue.

(30) It goes without saying that had the Department acted reasonably, the appellant, in all circumstances, would have been appointed along with Rajiv Puri on 13.02.1996. The ministerial inaction, deliberate or otherwise, cannot work to her disadvantage. Once the recommendations made by the Commission were accepted and acted upon by the competent authority, there was no reason to deny or delay the appointment of appellant who was within the advertised posts and next in order of merit after Rajiv Puri. For this reason alone, it is imperative to direct that the appellant shall be deemed to have been appointed along with Rajiv Puri on 13.02.1996.

(31) It is a matter of record that Rajiv Puri was assigned seniority w.e.f. 13.02.1996. Similarly, candidates below in the order of merit who joined on 02.04.1996 were also assigned seniority from the dates of their joining. The appellant in every eventuality was entitled to be appointed before the candidates lower in merit and for this reason also, she deserves to be taken to have been appointed w.e.f. 13.02.1996.

(32) In the light of the above discussion, we hold that the reasoning assigned by learned Single Judge to the effect that the criteria prescribed in Appendix 'B' of 2001 Rules for preparation of the workable seniority for promotion as Senior Lecturer is relevant to determine seniority between the appellant and the first respondent, is not a correct statement in law. The finding to that extent is, hereby, set aside. We further hold that keeping in view the Executive Instructions dated 24.11.1962 coupled with the principles of equity, just and fairness, the appellant being a selectee of 1995 is entitled to seniority above that of respondent No.1 who was selected subsequently in January, 1996, for the delay in appointment of the appellant is not her fault. We further hold that the appellant was entitled to be appointed along with the candidate at No.1 in order of merit hence she is deemed to



have been appointed as Lecturer w.e.f. 13.02.1996 and consequently shall rank senior to first respondent in the cadre of Lecturers. Questions No.(i) & (ii) stand answered accordingly.”

22. A bare perusal of the above would show under the exact similar situation, the benefit of grant of appointment to a candidate from the date of recommendation by the UPSC to mitigate hardship, has already been held to be valid. Hence, the acceptance of the plea of the petitioner will be directly contrary to the settled principle of law settled in LPA No.1504 of 2013 (supra) hence, the same cannot be accepted.

23. Qua the judgments in ***State of Bihar and others vs. Arbind Jee's*** case (supra) as well as in ***D.P.Dass's*** case (supra) being relied by the learned counsel for the petitioner, the same has no applicability in the facts and circumstances of the present case.

24. In the present case, the respondent No.4 has not been given seniority from a date prior to the date she was borne in the Cadre. As submitted earlier, she has already been granted appointment with retrospective effect from the date of her recommendation by the UPSC from 12.07.2002 which is her date of seniority as well. Hence, the argument that the actual appointment of respondent No.4 was in January, 2004 whereas, as per the deemed date of appointment i.e. on 12.07.2002 she is being given seniority from July, 2002, is incorrect. The date of appointment of respondent No.4 already stands *ante* dated to 12.07.2002 by the Chandigarh Administration while granting her the benefit of appointment from the date of recommendation by the UPSC which fact has gone un rebutted the hands of the petitioner.



25. With regard to the judgment in **D.P.Dass's** case (supra), it has been mentioned that in the absence of any Rule or Instruction, the seniority has to be determined on the basis of some principles and which are just and fair as per the mandate of Article 14 of the Constitution of India.

26. In the present case, the seniority has been given on the basis of Rule 8 of the 1994 Rules which says that the same is to be given on the basis of the total length of service. Once, the respondent No.4 has been given deemed date of appointment from 12.07.2002 as per the recommendation of UPSC which date is a prior date than the date of recommendation of the petitioner which is 04.09.2002 as well as her appointment on 27.11.2002, the deemed date appointment of respondent No.4 has to be taken as a date of her appointment for all intents and purposes including the seniority.

27. The last argument which has been raised by the learned counsel for the petitioner is that the seniority list was issued in the year 2007 after her appointment wherein petitioner was senior to respondent No.4 and therefore, there was a delay in changing the seniority.

28. It may be noticed that as bare perusal of the seniority Annexure A-7 would show that the seniority of the petitioner as well as respondent No.4 was tentative and was never finalized. Once, the said seniority was never finalized, it cannot be said that the tentative seniority has to remain in operation without being finalized. Certain principle of law that the settled seniority should not be disturbed is only where the seniority has been finalized after hearing all the parties whereas, nothing evident has been brought on record that prior to the date when the benefit was granted to respondent No.4 in the year 2009, any seniority was finalized in the Cadre of Lecturer. The

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seniority being relied by the petitioner is only tentative which is clear from the bare perusal of the same and therefore, the argument that there was due to delay in raising the claim regarding the consideration of seniority on the basis of the recommendation by the UPSC and hence, the benefit should not be given to respondent No.4, cannot be accepted.

29. Keeping in view the above, the petitioner has failed to show this Court that the order dated 14.09.2016 (Annexure P-23) passed by the Tribunal or the benefit given in favour of respondent No.4 by the State is perverse either on facts, or on the Rules governing the service for the settled principle of law hence, no interference by this Court is called for.

30. The present writ petition is dismissed.

31. Pending applications, if any, also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

August 13, 2025

Varinder

Whether speaking/reasoned : Yes

Whether reportable : No