



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204

CWP-6561-2002 (O&M)
DECIDED ON:05.09.2025

DARSHANA RANI

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. R.S. Tacoria, Advocate
for the petitioner

Mr. Rahul Dev Singh, Addl. AG Haryana

SANDEEP MOUDGIL, J

1. Prayer

The petitioner has approached this Court under Articles 226/227 of the Constitution of India assailing the legality of the impugned seniority list dated 30.03.2000 (Annexure P-5), and the reversion order dated 19.04.2002 (Annexure P-10), whereby she has been reverted from the post of *Investigator* to that of *Clerk*.

2. Brief Facts

The petitioner was appointed as Clerk on *ad hoc* basis on 17.08.1987 and she joined her services on 28.08.1987. Later, her services were regularised w.e.f. 01.01.1991. Respondent No. 3, Madhu Bala, was appointed as Clerk through the Subordinate Services Selection Board (S.S.S Board) on 16.12.1991. In the tentative seniority list issued on 17.03.1994, the petitioner was shown senior to respondent No. 3, and on that basis she was promoted to the post of Investigator on 18.10.1996.



In the year 1998, new service rules namely, ' The Social Defence and Security Deptt. (Group – C)' Service Rules, 1998 (inshort 1998 Service Rules) were notified, and on that basis a fresh seniority list dated 30.03.2000 was issued which placed respondent No. 3 above the present petitioner. Ultimately, vide order dated 19.04.2002, the petitioner was reverted from the post of Investigator to Clerk. Aggrieved by the same, the petitioner has filed the present writ petition challenging the seniority list and the reversion order.

3. **Contentions**

On behalf of Petitioner

Learned counsel for the petitioner contends that the impugned action of the respondents in altering the petitioner's seniority and reverting her to the post of Clerk is wholly arbitrary and unsustainable in law. It is argued that at the time of her regularisation in the year 1991, no statutory rules governed the field, seniority was to be reckoned on the basis of continuous length of service. The tentative seniority list dated 17.03.1994 rightly placed the petitioner above respondent No. 3, and no objection was raised at that time and on that footing, she was duly promoted.

It is further submitted that the 1998 Service Rules cannot be given retrospective effect to unsettle the vested rights of the petitioner. The subsequent seniority list dated 30.03.2000, prepared on the basis of the new rules, illegally pushed her below respondent No. 3 and formed the basis of her reversion. Moreover, the reversion order dated 19.04.2002, passed without considering her objections, violates the principles of natural justice.

Also, reliance has been placed on judgments of this Court wherein similarly situated employees, such as Dharambir Singh and Karambir Singh, were protected vide order passed in CWP No. 7411 of 1999 and CWP No.



8222 of 1999, and it is further argued that equity and fairness demand a similar protection in favour of the petitioner.

On behalf of Respondents

Per contra, learned counsel appearing for the respondents defending the action submitted that the petitioner's claim is wholly misconceived. It was argued that the petitioner entered service only on an *ad hoc* basis, and her regularisation was a matter of policy concession, whereas respondent No. 3 was a direct recruit through the Subordinate Services Selection Board in 16.12.1991 and the cadre is governed by statutory service rules notified in the year 1998, which prescribe that seniority has to be fixed on the basis of the mode of recruitment, giving primacy to regular direct recruits over those regularised. In view of the statutory mandate, the seniority list of 20.03.2000 correctly placed respondent No. 3 above the petitioner.

It is urged that the promotion granted to the petitioner on 18.10.1996 was irregular, as she was not entitled to promotion ahead of a regularly selected candidate. The reversion order dated 19.04.2002, therefore, is a natural consequence of the corrected seniority position, and no fault can be found with the same.

It was further argued that equity cannot override statutory rules, and the petitioner cannot claim any vested right to continue on an irregular promotion contrary to law.

4. Analysis

Having heard learned counsel for the parties and upon perusal of the record, this Court is of the considered view that the writ petition deserves to be allowed.



The issue before us at the first instance may appear to be one of mere seniority and promotion. But this court is of the opinion that this issue implicates something far deeper, the settled rights of an employee who, after years of service, finds her position unsettled by the stroke of a pen, invoking rules that came into existence years after her promotion. The question posed before this Court for determination is whether such unsettling of vested rights can withstand the scrutiny of law and of fairness and whether the 1998 Service Rules could retrospectively alter this settled seniority and consequently unsettle the promotion already granted.

At the outset, it is not in dispute that the petitioner was appointed as Clerk on *ad hoc* basis on 17.08.1987 and her services were regularised on 01.01.1991. Respondent No. 3 was appointed later on the recommendation of the S.S.S Board, on 16.12.1991.

A tentative seniority list was issued on 17.03.1994 which placed the petitioner above respondent No. 3, and no objections were raised thereto. On that basis, the petitioner was promoted to the post of Investigator on 18.10.1996, which she continued to hold till her reversion in 2002.

It is well-settled in service jurisprudence that once seniority is validly fixed in accordance with the then prevailing policy it cannot be unsettled by subsequent rules unless such rules are expressly retrospective. In ***“Direct Recruit Class II Engineering Officers’ Association v. State of Maharashtra (1990) 2 SCC 715”***, the Supreme Court recognised that continuous service, once regularised, must be counted towards seniority.

Relevant extract of the same as follows:

“44. To sum up, we hold that:

(A) Once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation.



The corollary of the above rule is that where the initial appointment is only ad hoc and not according to rules and made as a stop-gap arrangement, the officiation in such post cannot be taken into account for considering the seniority.

(B) If the initial appointment is not made by following the procedure laid down by the rules but the appointee continues in the post uninterruptedly till the regularisation of his service in accordance with the rules, the period of officiating service will be counted.”

Likewise, in “***P.S. Mahal v. Union of India (1984) 4 SCC 545***”, it was held that:

*“we find the observations of Krishna Iyer, J., speaking on behalf of the Court in “***Chauhan v. State of Gujarat, (1977) 1 SCR 1037***” where the learned Judge said at page 1057 of the report :
“Seniority, normally, is measured by length of continuous officiating service the actual is easily accepted as the legal.”*

The settled legal position that subsequent rules cannot retrospectively unsettle an accrued right unless such intention is clearly and expressly provided in the letter of law. In the case at hand, the 1998 Service Rules contain no such retrospective clause and the application of these rules to a seniority list prepared in the year 1994, and a promotion granted in the year 1996, is therefore legally impermissible.

Moreover, the reversion order is bereft of reasons as it does not deal with the petitioner’s objections being violative of principles of natural justice. Natural justice is no mystic testament of judge-made juristics but the pragmatic, yet principled, requirement of fairplay in action as the norm of a civilised justice system and minimum of good governance. In ***ORYX Fisheries Private Ltd. v. Union of India and Others, 2010 (13) SCC 427***, the Supreme Court held:



"32. Therefore, while issuing a show-cause notice, the authorities must take care to manifestly keep an open mind as they are to act fairly in adjudging the guilt or otherwise of the person proceeded against and specially when he has the power to take a punitive step against the person after giving him a show cause notice."

Thus, an adverse order passed after issuance of show cause notice to the employee must stand or fall on the reasons it discloses. In the present case, the impugned order of reversion dated 19.04.2002 fails this test as it does not appreciate the objections raised by the petitioner to the show cause notice issued to her.

Also this court is aware of the dimension of equity involved. The petitioner has served as an Investigator for nearly six years. The fact that similarly situated employees, such as Dharambir Singh and Karambir Singh, were protected by this Court in earlier writ petitions vide order in **CWP No. 7411 of 1999** and **CWP No. 8222 of 1999** is of significance here. To deny the same protection to the present petitioner would invite the charge of arbitrariness, violative of Article 14 of the Constitution. Service law does not exist in a vacuum and it must be informed by fairness, predictability, and respect for legitimate expectation.

This Court cannot lose sight of the spirit of the law and the human element in this litigation. Behind every rule, every list, and every order lies the life of an individual who has devoted years of service with the expectation that fairness will govern her journey. The petitioner has served for nearly fifteen years when her promotion was suddenly taken away. After holding a higher post for six long years to be told that one must return to a position once left behind is not merely a matter of service law, it is an affront to the faith, an employee reposes in the system.



Service jurisprudence is not just about hierarchy and procedure, but also about justice and fairness. Employees serve the State with the belief that their legitimate expectations will not be unsettled arbitrarily. The law must not be blind to the lived reality of the individual as the essence of justice not only to decide disputes, but to preserve faith in the system of governance itself.

In view of the above discussion, the court is persuaded to hold that the respondents acted in excess of their authority in unsettling the petitioner's seniority and reverting her from the promotional post. The seniority list dated 30.03.2000, insofar as it alters the petitioner's position, cannot be sustained and the reversion order dated 19.04.2002, being its consequence, must also stand failed.

5. Conclusion

Accordingly, the present writ petition is allowed and the impugned order of reversion are set aside. The petitioner shall stand restored as Investigator with all consequential benefits, both monetary and notional.

Pending application(s), if any shall disposed off, accordingly.

05.09.2025

Meenu

**(SANDEEP MOUDGIL)
JUDGE**

Whether speaking/reasoned

:Yes/No

Whether reportable

:Yes/No