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

107+222

**CWP-24750-2024 (O&M).
Date of Decision: 05.04.2025.**

SHUBHAM CHAUDHRY

... Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

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

PRESENT Mr. Sunil Kumar Nehra, Advocate
Mr. Rahil Mahajan, Advocate,
Mr. Viren Nehra, Advocate,
Mr. Arjun Dosanj, Advocate,
Mr. Akash Gahlawat, Advocate, and
Ms. Meghna Nehra, Advocate,
for the petitioner.

Mr. Rahul Dev, Addl. A.G. Haryana.

Mr. Ravinder Malik (Ravi), Advocate,
for respondents No.5, 34, 50, 52, 84, 90, 97, 129 and 133.

Mr. R.K. Malik, Sr. Advocate, with
Mr. Kartikey Chaudhary, Advocate,
for respondents No.8, 20, 48, 73, 81, 93, 104, 109, 114, 116, 127,
128 and applicants-respondents No.314 to 327.

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Mr. Arjun Pratap Atma Ram, Advocate, and
Ms. Shreya Kaushik, Advocate, for the applicants/
respondents No.3, 4, 5, 9, 10, 11, 13, 15, 16, 17, 21, 23, 24
and 26.

Mr. Mukesh Kumar Verma, Advocate,
for respondents No.5, 8, 9, 12, 13, 15, 16, 23, 24, 30, 31, 40, 46,
49, 52, 55, 56, 57, 62, 64, 66, 67, 68, 76, 90, 95, 105, 107, 108,
112, 113, 126, 129 and 138 and also
for the applicants-respondents No.328 to 331 in CM-1986-CWP-
2025 and for the applicant-respondent No.332 in CM-1836-CWP-
2025.

VINOD S. BHARDWAJ, J. (ORAL)

CM-2525-CWP-2025

In view of the reasons mentioned in the application, the same is
allowed. The main writ petition as well as the pending misc. applications are
taken up on Board today itself for final hearing.

CM-16336-CWP-2024; CM-19189-CWP-2024 and CM-1836-CWP-2025

Applications are allowed as prayed for subject to all just
exceptions.

Applicants as mentioned in the respective applications are
impleaded as respondents No.314 to 332.

Amended Memo of Parties are taken on record.

The Registry is directed to substitute the same at an appropriate
place.

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Main case

Challenge in present writ petition is to the seniority list dated 21.05.2024 as on 01.01.2023 of the post of Forest Guard on the ground that the same is illegal and arbitrary and it unsettles the seniority that has been in force since the year 2014. A further challenge is to the communication dated 30.08.2024 whereby the private respondents have been called for promotion to the post of Forester along with the orders of promotion of the private respondents who had been promoted to the post of the Forest Guard.

2 Learned counsel for the petitioner contends that vide Advertisement No.1/2011, 203 posts of Forest Guards were advertised by the Commission. Thereafter, the number of posts were increased to 471 vide Corrigendum of 18.10.2011. Of the said posts, 151 posts were meant for the general category. Another public notice was later issued on 29.11.2012 whereby the post of Forest Guard was withdrawn by the department from the advertisement published. The Forest department advertised the posts afresh subsequently vide public notice dated 06.03.2013 in which it advertised only 80 posts for the general category as against 151 posts advertised earlier. It is further contended that at the time of issuance of corrigendum dated 18.10.2011, the total posts were increased of which 133 posts were reserved for SC category; 84 posts were reserved for BCA category and 67 posts were reserved for BCB category. However, in the fresh recruitment notice dated 08.04.2013, the department decreased the total reserved posts even though

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the total vacancies remained the same. The details thereof have been tabulated as under:-

| <i>Category</i> | <i>Corrigendum issued by HSSC dated 18.10.2011</i> | <i>Recruitment notice issued by Department dated 08.04.2013.</i> |
|-----------------|--|--|
| <i>General</i> | <i>151</i> | <i>80</i> |
| <i>SC</i> | <i>124</i> | <i>75</i> |
| <i>BCA</i> | <i>48</i> | <i>30</i> |
| <i>BCB</i> | <i>31</i> | <i>86</i> |
| <i>ESM GEN</i> | <i>36</i> | <i>27</i> |
| <i>ESM SC</i> | <i>9</i> | <i>61</i> |
| <i>ESM BCA</i> | <i>36</i> | <i>37</i> |
| <i>ESM BCB</i> | <i>36</i> | <i>37</i> |
| <i>OSP GEN</i> | <i>-</i> | <i>12</i> |
| <i>OSP SC</i> | <i>-</i> | <i>13</i> |
| <i>OSP BCA</i> | <i>-</i> | <i>7</i> |
| <i>OSP BCB</i> | <i>-</i> | <i>6</i> |

3 Counsel contends that the petitioner appeared in the selection process and was successful in the same whereupon an appointment letter was issued to him on 04.07.2014 as a Forest Guard in the general category. He successfully completed the forest guard training course for which a certificate dated 15.01.2015 was also issued to him. However, one CWP No.23762 of 2016 titled as 'Shambhu and another Vs. State of Haryana and others' was filed before this Court seeking setting aside of the result dated 25.06.2014 as well as merit list dated 11.07.2014 for appointment to the post of forest guard pertaining to the selection of the petitioner herein. A further prayer was made for issuing directions to the official respondents to appoint the petitioners therein on the post of Forest Guard in the category of scheduled caste and backward class A category.

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4 He further contends that the respondent department, on the other hand, prepared a gradation list of the forest guards as on 01.01.2017 wherein the name of the petitioner was reflected at Sr. No.565 and none of the private respondents were brought in the cadre. They having not been appointed thus were not the members of the service. The petitioner continued to discharge his functions without any complaint of any nature whatsoever.

5 It is submitted that the aforesaid CWP No.23762-2016 was finally disposed of by this Court vide order dated 02.12.2019 by directing as under:-

“1. Learned counsel for the petitioners states that vide order dated 05.10.2018, learned State counsel was directed to file an affidavit whether any benefit of relaxation can be given to the candidates belonging to SC/BCB category who have secured more marks than the last candidate in the general category and in response thereto, affidavit dated 13.05.2019, has been filed by Shri M.L. Rajwanshi, Member Secretary, Departmental Selection Committee- cum-conservator of Forests (Legal). Relevant extract of the affidavit is reproduced as under:-

a) That the Chief Secretary to Government of Haryana vide its letter No.22/88/96-3-III dated 25th June, 1997 has issued instructions regarding the candidates belonging to SC and B.C reservation. Wherein it has been stated that if any member/members belonging to Schedule Castes/Backward classes is/are selected in the open competition for direct recruitment on the basis of their own merit, they will not be counted against the quota for reserved for Scheduled

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Castes/Backward Classes, they will be treated as open competition candidates. However, such candidates should fulfil condition of eligibility regarding age etc.

b) It is submitted that relaxation, if any, which is to be provided to SC/BCB category candidates who have secured more marks than the last candidate in the general category can only be granted as per the above mentioned letter of Chief Secretary to Government of Haryana dated 25th June, 1997.

2. Learned counsel for the petitioners states that in view of the stand taken of the respondents in affidavit dated 13.05.2019, the writ petition be disposed of by directing the respondents to take action in terms of the affidavit.

3. In view of the statement of learned counsel for the petitioner, the writ petition is disposed of by directing the respondents to take action in terms of the stand as taken in affidavit dated 13.05.2019, in accordance with law, within six weeks from the date of receipt of certified copy of this order.”

6 He contends that the respondents have now issued the impugned seniority list dated 21.05.2024 wherein the name of the petitioner has been shown at Sr. No.483 whereas the names of private respondents have been shown above the petitioner notwithstanding that the appointment of the petitioner was made in the year 2014 while the private respondents have been appointed much later.

7 Learned counsel contends that the respondents have thus altered the seniority of the petitioner and have placed the persons who were

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appointed much later ignoring the provisions of Rule 12 of **the Haryana State Forest Executive Section (Group C) Service Rules, 1998** which prescribe that the seniority inter se members of the service shall be determined by the continuous length of service and the order of merit as determined by the Commission was not to be disturbed in fixing seniority.

The relevant rule is extracted as under:-

“12. 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 Commission, 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 a member appointed by promotion or by transfer, seniority shall be determined according to

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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 a member, who was drawing a higher rate of pay in this previous appointment; and if the rates of the pay the drawn are also the same, then by the length of their Service in the appointments, if the length of such Service is also the same, the older member shall be senior to the younger member."

8 He submits that the respondents have unilaterally carried out the said exercise of change of inter se seniority and merit of the petitioner and have placed the petitioner below the private respondents warranting the said action of the respondents liable to be set aside. He places reliance on the judgment in the matter of CWP No.14392 of 2003 titled as 'Sukhbir Singh Vs. State of Haryana and others' to contend that the seniority has to be maintained strictly in accordance with the merit as recommended by the Commission and the same cannot be altered.

9 Learned counsel for the respondents, however, places reliance on the written statement filed by the Principal Chief Conservator of Forests (Development) Haryana, dated 25.11.2024. The relevant extract thereof reads thus: -

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4. That in the year 2013, a Departmental Selection Committee of Forest Department, Haryana was constituted by the Government. The said Selection Committee advertised for recruitment of 471 Forest Guards in various reserved/unreserved categories vide advertisement No.1 dated 06.03.2013. The breakup of the advertised vacancies for different categories was as under:-

| GEN | SC | BCA | BCB | EXSM (GEN) | EXSM (BCA) | EXSM (BCB) | EXSM (SC) | OSP (GEN) | OSP (SC) | OSP (BCA) | OSP (BCB) | TOTAL |
|-----|----|-----|-----|---------------|---------------|---------------|--------------|--------------|-------------|--------------|--------------|-------|
| 80 | 75 | 30 | 86 | 27 | 37 | 37 | 61 | 12 | 13 | 7 | 6 | 471 |

Approximately 5 lac applications were received against these 471 vacancies. After scrutiny of applications, 4710 no. of applicants (10 times the no. of post) were called for interview and physical efficiency test. The Departmental Selection Committee declared the result of successful candidates on 25.06.2014. The merit list dated 11.07.2014 was prepared on the basis of percentage marks in academics, marks awarded in interview and physical efficiency test, and on the basis of said merit list, appointments were made. Waiting list against respective categories was also prepared.

The result dated 25.06.2014 as well as merit list dated 11.07.2014 was challenged by the waiting list candidates by filing CWP No. 23762 of 2016 titled as Shambhu and another Vs. State of Haryana and others and CWP No. 30774 of 2018 titled as Naresh Kumar and others Vs. State of Haryana and others in the Hon'ble High Court.

The petitioners of these CWP's alleged that many candidates belonging to reserve category had secured higher marks than the candidates of General Category and therefore as per

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Haryana Government instructions issued vide notification No. 22/86/96-3 GS-III dated 25.06.1997, such candidates of reserve category should have been given appointment against General Category vacancies and not against the quota reserved for SC/BC category.

The petitioners contended that if the merit list is reviewed then it would be found that many candidates who have been given appointment against the Schedule Caste or Backward Class category were actually eligible to be considered in the General category vacancy posts on the basis of their merit and hence, many candidates from the waiting list including the petitioners would have become eligible for appointment against vacancies of their respective reservation quota.

Thereafter, during the pendency of said petition, vide order dated 05.10.2018, Hon'ble High Court directed the respondents to file an affidavit regarding the relaxation which can be given to SC/BCB category who have secured more marks than the last candidate in the General category. In compliance of said directions an affidavit dated 13.05.2019 was filed on behalf of Departmental Selection Committee, wherein it was mentioned that -

"Relaxation, if any, which is to be provided to SC/BCB category candidates who have secured more marks than the last candidate in the General Category can only be granted as per the letter of Chief Secretary to Govt. of Haryana dated 25.06.1997."

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In view of the said affidavit, CWP No. 23762 of 2016 was disposed of by Hon'ble High Court vide order dated 02.12.2019 with directions to take action in terms of the stand as taken in affidavit dated 13.05.2019, in accordance with law.

5 That Principal Chief Conservator of Forests, Haryana vide order dated 24.08.2020 had constituted a Committee of following composition for recommending action for complying with the order dated 02.12.2019 passed by Hon'ble High Court in CWP No. 23762 of 2016 titled as Shambhu and another Vs. State of Haryana and others:-

- 1. Sh. Suresh Dalal, IFS APCCF (Development)
Chairman*
- 2. Sh. Vinod Kumar, IFS APCCF (Administration)
Member Secretary*
- 3. Sh. Gautam Nariala, ADA O/o PCCF, Haryana
Member*

The committee after examining the case in detail submitted its report with the following recommendations: -

(A) There are five petitioners (two in CWP No. 23762 of 2016 and three in CWP No. 30744 of 2018). They need to be appointed immediately with notional consequential benefits in matters of pay fixation and length of service etc to avoid any consequences that may emerge if the appointments are not made before four weeks as directed by the Hon'ble High Court in its order dated 25th August, 2020.

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(B) The need for correction of errors in the merit list can be addressed by following the under mentioned pathway -

(i) There are 40 Forest Guards who were appointed against vacancies of reservation categories and will now be considered against vacancies of General Category. The candidates who will now be given appointment against reservation vacancies may be placed in accordance with their merit secured in the competitive exam.

(ii) The movement of the Forest Guards to general category vacancies from reservation quota will render forty Forest Guards jobless, as they stand presently in General Category without vacancy as were advertised for the purpose of this recruitment. The fate of these Forest Guards can be decided with following two options –

(a) Initiate the process for termination of their service

or

(b) May consider on sympathetic grounds and in accordance with the principles of natural justice to retain them against the available vacant direct recruitment posts of general category. The reason of sympathetic consideration is on following grounds -

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- *Their appointment in government service was due to an error in selection process and the error is not attributable to them.*

- *They have already served in the Department for more than 5 years and terminating their services at this stage would cause extreme hardship to them because many of them would have become overage and they might not be able to secure fresh employment. Moreover, it is not the case that they had submitted any wrong information or document for getting this appointment. Further, the department has already invested substantially for their professional training and they are now experienced Forest Guards. The department has sufficient vacancies of direct recruit (General Category) in the cadre of Forest Guards.*

6. That thereafter, the case was sent by the Government for the advice to O/o Advocate General, Haryana regarding retention of above mentioned 40 Forest Guards in service. After that the O/o Advocate General, Haryana vide opinion dated 28.06.2022 opined that in view of judgments of the Hon'ble Supreme Court in Vikash Pratap Singh and others Vs. State of Chhattisgarh and others, 2013 (14) SCC 494 and Anmol Kumar Tiwari & Ors. Vs. State of Jharkhand and others, 2021(5) SCC 424, the Government may take a decision and can accommodate these 40 Forest Guards against the direct recruitment posts. In view of the advice tendered by the O/o Advocate General, Haryana, a committee was constituted of the following composition to

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recommend a proposal to accommodate 40 Forest Guards against the direct recruitment on sympathetic consideration:-

*(i) Sh. Suresh Dalal, IFS
APCCF (Forestry)*

*(ii) Sh. Vinod Kumar, IFS
APCCF (Admin.)*

*(iii) Sh. Nitin Sharma
ADA*

Further, it was decided by the committee vide report dated 22.11.2022 as under:-

1. The said 40 Forest Guards may be placed in seniority below the junior most Forest Guards in the revised seniority list dated 27.08.2020.

II. The inter-se seniority of the said 40 Forest Guards is to be in accordance with their relative merit secured in the competitive exam.

III. Their date of appointment will be altered depending on availability of vacancy of General Category (by following roster).

7. That it is clear from above that the petitioners were not even entitled for retention in the service and they were retained after considering their case sympathically and thus they were placed in seniority below the junior most Forest Guards in the revised seniority list dated 27.08.2020. Thus, it is wrong to say that the private respondents who were lower in merit have been shown senior to the petitioners in the tentative seniority list as the seniority list was revised under the circumstances mentioned

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above and it has been rectified in view of the reports of the committees mentioned above. Therefore, the proposed tentative seniority list prepared by the Department is valid, legal and binding upon the petitioners.

8. That the finding/report of any committee has still not challenged by the petitioner or even mentioned by the petitioner in the present petition. The fact of finding/report of the committee is intentionally not disclosed by the petitioner in order to suppress the material facts and to mislead this Hon'ble Court.”

10 Referring to the above, counsel for the respondents have vehemently argued that as a matter of fact, the selection in the present case has not been made by any statutory commission, rather the said exercise has been undertaken by the Departmental Selection Committee of the Forest Department.

11 During the course of making recommendations, candidates belonging to various reserved categories were erroneously recommended against the said reserved category notwithstanding the said candidates having secured more marks than the last recommended candidate in the general category and in violation of the specific information. As per the position in law, such candidates, who were higher in the order of merit to the last appointed candidate in the general category, were required to be recommended against the posts of general category. The said fact came to the notice of the authorities during the pendency of the said writ petition and

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accordingly the above affidavit was filed before this Court apprising that a Committee comprising of the Additional Principal Chief Conservator of Forests (Development) as Chairman, Additional Principal Chief Conservator of Forests (Administration) as Member Secretary and the ADA, O/o Principal Chief Conservator of Forests as a Member thereof had been constituted. The said Committee examined all the aspects and competing claims and came to the conclusion that as many as 40 Forest Guards, who were appointed against reserved categories, were required to be considered against the General Category on the basis of their own merit. The said candidates were thus required to be transferred from the reserved category to the general category and the persons who were in waiting list of the reserved categories were required to be included in the select list as a necessary consequence. It was also noticed that the said action of the respondent would oust the 40 candidates belonging to the general category. Noticing the hardship that may arise on account of the fact that said forest guards have been in service for a period of more than 05 years since then, the Committee recommended in its report dated 22.11.2022 that the 40 forest guards may be placed in seniority below the junior most Forest guards in the revised seniority list dated 27.08.2020 and inter se seniority of the said 40 forest guards to be fixed in accordance with their relative merit secured.

12 They further contend that the said recommendation made by the above Committee placing those 40 persons to be higher than the petitioner (other similarly situated persons) is not a subject matter of challenge. It is

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also submitted that only the consequential action of revising of the seniority list as per decision of the Government is under challenge in the instant writ petition and in the absence of any challenge to the decision forming the cause of revision, the writ petition is liable to be dismissed.

13 They further submit that the petitioners were benefactors of a merit list that was wrongly drawn and that upon reconsideration of the merit as per law, the petitioner cannot claim to be placed above the private respondents who have been recommended on their own merit against the vacancies that ensued as a result of 40 candidates moving from the reserved categories into the general category and from the waiting list of the reserved categories into the select list. The petitioner cannot equate himself to the candidates who were originally recommended. He has continued to be retained in the cadre as a matter of an indulgence shown in his favour by the respondent authorities instead of ousting him from the services which was otherwise a necessary consequence.

14 In response thereto, counsel for the petitioner contends that even though the respondents have placed reliance on the report of the Committee dated 22.11.2022, however, the said report has not been appended along with the present petition and has also not been supplied to the petitioner. Further, it is also not known as to whether the revision of the seniority list has been undertaken in accordance with the order passed by the Committee or not. A further argument is raised that date of joining of the petitioner having not been changed as per Rule 12 of the Rules of 1998, the length of service was

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to be taken into consideration to determine the inter se seniority of the members of the service. He contends that the respondents are members of the same select list prepared in the year 2014 and the merit list having been revised, the rights of the petitioner cannot be prejudiced. He further contends that two respondents i.e. respondents at Sr. No.312 and 313 would not be entitled for being promoted as a forest guard as they did not possess the requisite experience of 10 years. They have been shown over and above the petitioner even though they were born in the cadre of forest guards only pursuant to their order of promotion on 5.4.2024. He contends as a parting argument that even if the recommendations of the Committee were to be read against the petitioner, yet the revision should be deemed to take effect from the date when the recommendation of the said Committee was accepted by the authorities i.e. after the year 2022 onwards. The private respondents at Sr. No.312 and 313 having been brought in the cadre in the year 2024 are to be kept below the petitioner.

15 Notwithstanding the specific option/advice extended to the counsel for the petitioner as to whether he would be intending to challenge the report of the Committee dated 22.11.2022 or that his objection with regard to the recommendation of the Committee be also noticed and commented upon. It was also put to him that in the event of the petitioner seeking consideration of the aforesaid objection, it may have a prejudicial impact on any of his substantive rights, if any, to challenge the aforesaid report of the Committee later, to which counsel for the petitioner stated that he has

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consciously chosen to address arguments on the said issue and even though it may have an impact on his substantive right to raise a challenge to the report of the said Committee, he has instructions that the same be dealt with.

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

17 Some of the essential facts that have remained uncontroverted in the present case are that the selection of the forest guards had been undertaken by the Departmental Selection Committee pursuant whereto the petitioner was amongst the 40 general category affected candidates who were recommended. It has also remained uncontroverted that two writ petitions i.e. CWP No.23762 of 2016 and CWP No.30774 of 2018 were preferred before this Court challenging the result prepared by the Departmental Selection Committee on the ground that certain candidates belonging to the reserved category, even though were higher in the order of merit as compared to the last selected candidate in the general category, had been recommended in the reserved category only. During the pendency of the said writ petitions, respondent State submitted an affidavit before this Court apprising that Department is revisiting the recommendations made by the Departmental Selection Committee and the claims of the petitioners as well as others shall be considered in accordance with law and appropriate recommendation will be made thereafter. The writ petition bearing No.CWP-23762 of 2016 filed before this Court were accordingly disposed of vide order dated 02.12.2019

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with a direction to the respondent authorities to take necessary action within a period of 06 weeks. The said Committee submitted its report dated 22.11.2022 wherein it noticed that as many as 40 candidates who were recommended in reserved category were higher in merit than the last selected candidate recommended in the general category and had to be transposed as the recommended candidates in the general category instead of reserved category. As a necessary consequence thereof, the other candidates, who were otherwise in the waiting list of the respective reserved categories, became entitled to be recommended in their own category.

Undisputedly, the said candidates who approached this Court challenged the action of the respondent department in making recommendation disregarding the above settled position in law. As a necessary implication thereof, the persons who were otherwise entitled to be recommended against the posts reserved for their substantive categories were left out of the zone of consideration and were placed in the waiting list thereafter.

18 The Committee, while examining the case in a holistic manner, adopted a sympathetic view towards the petitioner and others on noticing that they had already served the Department for more than 05 years without any complaint and ouster of the petitioner and other similarly placed persons from service would cause extreme hardship. In the given circumstances, the Committee made a specific recommendation that the petitioner amongst others such similarly placed persons may be retained in service even though

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they would otherwise not be within the zone of consideration for appointment. It was also recommended that they should be kept at the end in the merit list.

19 The petitioner is thus a beneficiary of an erroneous recommendation made by the Departmental Selection Committee in his favour and now wants to seek validation and vesting of a right in his favour to the detriment of the persons who were originally wrongly left out and claiming that his seniority is to be put right above the others. I find that acceptance of such an argument would be wholly unjust to the persons who were wrongly not recommended despite their right to such appointment to a public office. The acceptance of the argument, in my view, would give an undue premium to a person who is in continuous employment not on his meritorious placement but as a matter of concession. The said concession cannot be taken to a level where the rightful statutory entitlement of the wrongly left out candidates to secure an appointment and their claim to seniority for the period is lost out for no fault of theirs. The provisions of Rule 12 under the Haryana State Forest Executive Section (Group C) Service Rules, 1998, under the given circumstances, cannot be used to the advantage of a beneficiary who has been extended a conditional concession.

20 The petitioner and other persons were about to be ousted from the service but for the concession and they cannot claim any right beyond what has been provided thereunder.

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21 Further, the petitioner has chosen not to exercise an option of challenging the recommendation made by the Departmental Selection Committee and the decision taken by the Government and has instead insisted upon the determination of his claim at this juncture itself. Hence, under the given circumstances, this Court cannot agree with the argument raised by the petitioner to the effect that despite no challenge having been raised to the recommendations of the Departmental Promotion Committee in its report dated 22.11.2022 or the eventual decision, the relief as claimed for by the petitioner can even be considered. He having taken a conscious decision not to challenge the report of the Committee cannot then run away from the consequences that flow therefrom.

22 The petitioner was fully aware of the conditions attached to his continued employment. Having accepted the same, he cannot now roll back and seek alteration of the integral terms of the decision. In such an eventuality, a right would revive in the private respondents to challenge the retention of the petitioner and to claim his ouster from service. The petitioner having consciously chosen to accept the appointment cannot portray himself as a victim considering that he saved his job even though his appointment could have been set aside on that day. He withdrew financial benefits while the lawfully entitled candidates were contesting in Court for getting their rightful due. Accepting the argument of petitioner would amount to axing their right of seniority against a wrongful preference to one who could not have been in service at all.

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23 The provision of Rule 12 under the Haryana State Forest Executive Section (Group C) Service Rules, 1998 prescribing seniority on the basis of the length of continuous service has to be construed in light of a selection process having been undertaken as per law and in a manner recognised and prescribed by law. Since the petitioner has been brought in the service not in a manner prescribed by law but as a matter of concession, hence, the limitations and conditions prescribed for grant of such a concession would always regulate his induction into service and also the seniority.

24 It has also to be perceived that the private respondents are amongst those persons who belong to various reserved categories and might have at the given point of time been lower in the order of merit as compared to the petitioner, who belongs to the general category, however, it cannot be lost sight of the fact that the petitioner did not fall within the zone of consideration in case the merit list would have been rightly drawn on the date when the final selection list was to be recommended.

25 The same now only leaves one aspect i.e. as to whether the respondents No.312 and 313, who have been promoted to the post of Forest Guard in April 2024 can be ranked higher than the petitioner or not. I find that there is some merit in the claim of the petitioner in this regard. Since the merit of the petitioner is to be ranked amongst the candidates who were to be recommended by the Departmental Selection Committee as per the selection process undertaken by them in the year 2014, pursuant to the

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recommendation made by the Committee vide its report dated 22.11.2022, hence, he is to figure at the end of the seniority list of only those selected candidates and any person who has been inducted in service thereafter, from any source, i.e. by way of promotion or otherwise, would rank below the petitioner.

26 The present writ petitions stands disposed of accordingly.

27 All other pending misc. application(s), if any, shall also stand(s) disposed of accordingly.

April 05, 2025.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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