

State of Haryana and Others

Vs

Balwant Singh and Others

Civil Appeal No. 7787 of 1996

(K. Ramaswamy, G.B. Pattanaik JJ)

22.04.1996

JUDGMENT

1. Delay condoned.
2. Leave granted.
3. Heard learned counsel on both sides.
4. This appeal by special leave arises from the order of the Division Bench of the High Court of Punjab and Haryana made on 14-7-1995 in Writ Petition No. 3200 of 1995. The admitted position is that on 8-8-1971, the Haryana Subordinate Service Selection Board advertised for selection of the candidates for Family Welfare Extension Educators and Family Planning Welfare Educators in the Health Department of the State of Haryana. On 7-6-1972, a list of 45 candidates was prepared on the basis of merit secured by them in the selection. It would appear that ad hoc appointees approached the High Court and filed WP No. 2122 of 1972 and obtained status quo on 13-6-1972. The writ petition came to be disposed of on 20-11-1981. Thereafter, the letters of appointment were given to the selected candidates and the candidates came to be appointed and joined duties on various dates between 30-9-1985 and 23-12-1986. The gradation of seniority was done in 1994. The seniority of respondents has been determined with effect from their dates of actual joining in 1985-86. As said earlier, the High Court allowed the writ petition and declared them to be seniors on a par with those who were selected and to whom letters of appointment were offered in 1972.
5. The question, therefore, is: whether the respondents are entitled to seniority from 7-6-1972 as per the gradation list prepared by the Selection Board? Normally, the seniority of the candidates who are selected by direct recruitment would be determined with reference to the merit list prepared by the Selection Board. But, unfortunately, in this case, they could not join the service due to the pendency of the writ petition. The respondents themselves have to be blamed for the laches since they did not take any action, namely, impleading themselves in the pending writ petition nor filed any independent writ petition claiming for their appointment. After the dismissal of the writ petition, letters of appointment came to be issued in 1985 and they joined the service. It is settled law that the seniority of the candidates has to be reckoned from the date on which they joined the service and started discharging the duties of the post to which they came to be appointed. In that view, since the respondents joined the service in 1985-86, seniority cannot be given with retrospective effect from the date of the selection (sic of) the candidates appointed from the list of merit prepared by the Selection Board.
6. The appeal is accordingly allowed. No costs.