

**Government of Punjab
Department of Home Affairs & Justice
(Home-3 Branch)**

ORDER

Whereas Seniority list of PPS Officers was circulated vide Endst. No. 15/157/2008-1H3/3179-3183 dated on 16-12-2009 which was challenged by the Promotee PPS officers in Punjab and Haryana High Court by filing Civil Writ Petitions No.6581 of 2010, 6931 of 2010, 7436 of 2010, 7494 of 2010 , 7501 of 2010, 8575 of 2010 and 6540 of 2010. In CWP No. 6581 of 2010 the petitioners have filed Civil Misc. Application No.7273 of 2010 in which they pointed out some discrepancies/clerical/typographic mistakes. The Hon'ble Punjab and Haryana High Court on 21-7-2010 has passed the following orders:-

“ Ms. Reeta Kohli, learned Additional Advocate General, Punjab, has pointed out that in terms of Para 19(d) of the order dated 16-12-2009 circulating the seniority list on 16-12-2009, any clerical/typographical mistake detected or any entry not as per office record is subject to correction. Ms. Kohli states that since a number of applications have been filed point our different discrepancies at different times. It is difficult for the State to take a comprehensive view on such discrepancies. She states that all the discrepancies may be pointed out by the affected persons within 15 days from today and the State shall take a comprehensive view on such discrepancies.

In view of the said fact, hearing of the present petition and all other connected petitions is adjourned to 8-9-2010.

Ms. Kohli shall produce the revised seniority list, if any , before the next date of hearing after forwarding advance copies to the learned counsel for the parties. ”

2. And Whereas, In compliance of the orders of Hon'ble High Court, the following IPS/PPS officers have submitted their representations :-

1. Sh. Paramjit Singh Grewal, IPS, DIG
2. Sh. Harinder Singh Chahal, IPS
3. Sh. Narinder Pal Singh, IPS, DIG
4. Sh. Rajinder Pal Singh, IPS, DIG
5. Sh. Tejinder Pal Singh, IPS
6. Sh. Lok Nath Angra, IPS
7. Sh. Inder Mohan Singh SSP and others
8. Sh. Rajinder Kumar, SP
9. Sh. Pawan Kumar Uppal, SP
10. Sh. Iqbal Singh, SP, Commandant 4th IRB
11. Sh. Iqbal Singh, SP, Human Rights Cell
12. Sh. Inderjeet Singh Randhawa, Commandant 3rd Bn. CDO
13. Sh. Kamal Kumar, SP (Retd.)
14. Sh. Swarandeeep Singh, PPS and others
15. Sh. Sat Pal and others
16. Sh. Narjinder Singh, PPS, SP
17. Sh. Lakhwinder Singh, PPS, SP
18. Sh. Ashish Kapoor, PPS and others

3. And Whereas, the above said officers in their representations have pointed out the discrepancies which have been summarised as under :-

- i) **Some PPS officers have pointed out that some persons recruited from the year 1955 onwards have been included Table-I whereas it should be started from Sh. Sham Dass at Serial No. 1 of the roster who was appointed on 25.12.1959 after the commencement of 1959 Rules.**
- ii) **Six officers who were recruited and confirmed in the State of joint Punjab but allocated to the Haryana cadre have not been included in the Table-I of seniority list dated 16-12-2009.**

- iii) Sh. Gandharav Singh whose name has been shown at Sr. No. 102 of Table-I has also been allocated to the Haryana State and he has been wrongly shown in Table-I and subsequently has been rotated against Sr. No. 179 of Table-I.**
- iv) In Table-II at Serial No. 489, Sh. Rajpal Singh has been elevated to IPS on 24-1-96 whereas again rotated against Sr.No. 570 showing as retired on 31-10-2003. Similarly, at Serial No. 264 Sh. Paramjeet Singh Sandhu has been elevated to IPS on 2-12-82 whereas again rotated against Sr.no. 560 showing as retired on 31-05-2001. Again at Serial No. 524 Sh. Kultar Singh has been elevated to IPS on 31-5-97 whereas again rotated against Sr. No. 579 showing as retired on 31-08-2006.**
- v) As per the 1959 rules, the names of about 72 DSPs who were never confirmed during service and even after their retirements have also been included in these tables.**
- vi) As per policy instructions dated 4th July 1978 of the State Government, 80% of temporary posts other than Class IV were required to be converted into permanent ones provided these had been in existence for a continuous period of not less than three years and were required for work for permanent nature.**
- vii) As per the State Government Instructions dated 8-4-1991, the procedure of confirmation of an employee has been simplified delinking of confirmation from the availability of permanent posts. Further these officers have also pointed out that Rule 3.11 of CSR Volume-I, Part-I, was omitted retrospectively.**
- viii) The members of PPS Service are governed by two Rules i.e. the Punjab Police Service Rules 1959 and the Punjab Civil Services (General and Common Conditions of Service) Rules 1994 which have the**

overriding effect on all the existing service rules.

- ix) Some officers pointed out that by way of wrong interpretations, manipulations and twisting of facts, certain junior officers who have come into service after the year 2000 have also been placed higher and above the promotee officers when even they were not eligible to be recruited as DSPs.**
- x) In the Table-III, only 129 officers have been put against the total cadre strength which is a wrong statement as there should be around 200 permanent posts and not 144.**
- xi) Some officers have pointed out that in Table-III of the Seniority List dated 16-12-2009, 27 names of the IPS officers have been mentioned which is again wrong because the IPS officers seniority in all the previous Gradation lists has been always kept totally separate and nowhere the IPS as well as the PPS officers have been shown together.**
- xii) Sh. Narjinder Singh, DSP (Now SP) has pointed out that he was granted deemed date of promotion as DSP w.e.f. 1-12-1989 from the date his junior Sh. Rupinderpal Singh Bajwa was promoted as DSP however in the Seniority List dated 16-12-2009, he has been shown junior to him.**
- xiii) Sh. Tejinderpal Singh, DSP (Now IPS) has pointed out that he was promoted and confirmed as DSP and elevated to IPS before Sh. Harinder Singh Chahal, DSP (Now IPS). As such he is senior to Sh. Harinder Singh Chahal whereas in the seniority dated 16-12-2009 he has been shown junior.**
- xiv) Some of the officers have pointed out some double entries, fake entries, errors in the seniority list.**

4. And Whereas, the above points have been examined with the relevant available official record, the various judgements of the Hon'ble Supreme Court and High Court on the subject, the provisions of Punjab Police Service Rules, 1959 and the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994. The following position has been emerged after taking a comprehensive view by the competent authority :-

- i) **With regard to the inclusion of some Officers appointed in 1954 to 1957 it is mentioned that though they were appointed before the commencement of Punjab Police Service Rules, 1959 but they were confirmed in 1960, 1961 and 1962 and consumed the substantive vacancies in the above said years after the commencement of 1959 Rules. Therefore, they were rightly included in the Seniority List .**
- ii) **As per directions of the Hon'ble High Court the State was required to determine vacancies as on available at the commencement of the Punjab Police Service Rules, 1959, after taking into consideration the number of DSP's available on 1-12-1959 and then assign seniority keeping in view the vacancies at the time of recruitment and confirmation as and when such vacancies arise from amongst the promotees and direct recruits in the ratio of 4:1. It is submitted that a Committee consisting of Sh. Darshan Kumar, Joint Secy.(Home), Punjab, Sh. R.L.Wadwa, IPS, AIG/Admn. and Sh. M.R. Midha, Joint Secretary, Prosecution & Litigation, Punjab was constituted in the year 1981 to implement the directions of Hon'ble Supreme Court of India passed in case of "Paramjit Singh Sandhu & others Vs Ram Rakha & others" (AIR 1979 SC 1073). On the recommendations of the**

Committee, the State Government re-confirmed the officers w.e.f. 6-1-1960 to 1-7-1974 against the available permanent vacancies. 46 supernumerary posts were got created from the Department of Finance. The Orders were issued vide No. 8132/Con SA-6 dated 4-6-1981 . The officers allocated to Haryana in 1966 have not been included in the confirmation orders issued on 4-6-1981. The Six officers who were although appointed before the reorganisation of state of Punjab i.e. before 1.11.1966, can neither be reconfirmed from a subsequent date in view of the Section 115 of the Punjab Reorganisation Act 1966. While implementing the Supreme Court judgement in Paramjit Singh v/s Ram Rakha case , the State Government constituted a Committee to finalise the seniority which after detailed deliberations finalized the seniority dated 4.6.1981. These six officers as pointed out have not been included in that list. This seniority list was placed before the Hon'ble Supreme Court of India in Paramjit Singh v/s Ram Rakha case (AIR 1983 SC 314). Therefore, at this stage these officers are not required to be included in the Seniority List dated 16-12-2009, since they have retired much earlier.

- iii) As per available records Shri Gandharv Singh was a member of the PPS, who was confirmed as DSP on 09.05.1975 and retired on 28-2-1979. However, as per record it is revealed that he remained on deputation with other Governments.**
- iv) The position about discrepancies of rotating Sh. Rajpal Singh, Sh. Paramjit Singh Sandhu and Sh. Kultar Singh has been rectified in the amended/corrected seniority list.**
- v) The seniority list 16-12-2009 has been finalised keeping in view the judgement of Hon'ble High Court in C.W.P. No. 12206 of 2005 Gurpreet Singh Bhullar v/s State of Punjab in which the Hon'ble High Court**

has set aside the order of fixation of seniority 7/8-7-2005 and all other orders of confirmation with directions to the State Government to finalise the seniority list within three months keeping in view the following principles laid down in the judgement.

1. That the State Govt. shall firstly determine the vacancies available at the commencement of the Rules after taking into consideration the number of the Deputy Superintendents of Police available at the time of commencement of the Rules.

2. Thereafter, the State Govt. shall assign seniority keeping in view the vacancies (not the posts) at the time of recruitment and confirmation as and when such vacancies arise from amongst the promotees and direct recruits in the ratio of 4:1. While assigning seniority to the promotees and direct recruits, the State Government shall also assign seniority to the candidates belonging to reserved categories in terms of the Rules and instructions applicable to such categories

The seniority list has been finalised keeping in view the above mentioned principles. These 72 officers were recruited to the Punjab Police Service by promotion and have been consumed a vacancy within their quota.

- vi) **As stated by the representationists, as per instructions dated 4-7-1978, of the State Government 80% of temporary posts other than Class IV were required to be converted into permanent ones, In this regard it is stated that State Govt. from time to time converted temporary posts into permanent ones. Last time 46 temporary posts were converted into permanent ones vide letter No. 4/4/87/-2H(1)/671 dated 6-1-1989, thereafter no temporary post was converted into permanent one. Only those posts which already stands converted into permanent posts have been taken into account.**

- vii) **The issue with regard to the instructions dated 8.4.1991 de-linking confirmation with availability of**

permanent post has already been dealt with in the speaking order dated 16.12.2009, the relevant portion of which reads as under:-

“13. WHEREAS, the instructions in question dated 08-04-1991 were issued by the Department of Personnel for simplification of the confirmation procedure. These instructions interalia provided that confirmation would be made once in service in the initial grade only and further that confirmation would be de-linked from availability of a permanent vacancy. These instructions referred to confirmation only for the purpose of retention of a Government employee in service after probation and had no relevance for the purpose of seniority.

In this view the instructions will have no effect on the seniority to be fixed. The seniority has been fixed keeping in view the actual occurrence of the permanent vacancies and their share apportioned as per the prescribed ration of 4:1. The date of confirmation for purpose of seniority thus would be after two years of appointment against a substantive vacancy.”

Therefore the Seniority has been fixed by the date of confirmation and not from the date of confirmation.

viii) The issue with regard to the Punjab Civil Services (General and Common Conditions of Service) Rules 1994 have an overriding effect and the column of date of confirmation should be mentioned in the seniority list has also been dealt with in the speaking order dated 16.12.2009, the relevant portion of which reads as under:-

“14. WHEREAS, as per Rule 10 of the Punjab Police Service Rules, 1959, Seniority is to be determined by the date of confirmation in the service.

The above position is changed w.e.f. 4th May, 1994 when the Punjab Civil Services

(General and Common condition of Service) Rules, 1994 came into effect and Rule 8 of the these rules became overriding in the light of Rule 20. These rules are as under: -

Rule: 8 : Seniority:- The Seniority *inter se* of persons appointed to posts in each cadre of a service shall be determined by the length of continuous service on such post in that cadre of service.

Rule 20: Overriding Effect:- The provision of these rules shall have effect notwithstanding anything contrary contained in any rules for the time being in force for regulating the recruitment and conditions of service for appointment to public service and posts in connection with the affairs of the State.”

Thus, before 1994 Rules, Seniority is to be determined **by** date of confirmation against substantive post within the quota and after these rules coming into force, it is linked to the length of continuous service.

However, as per Rule 6 of 1994 Rules , **the number and character of posts, method of recruitment and educational qualifications and experience for appointment to a post or posts in a service and the departmental examination, if any shall be such as may be specified in the service Rules made for that service.** Thus, the number and character of posts and method of recruitment etc. shall be such as has been provided in Rule 3 and Rule 6 of the Punjab Police Service Rules, 1959 and the seniority w.e.f. 04.05.1994 has been drawn on the basis of Rule 8 of the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994, keeping in view, the length of continuous service on such post in that cadre of the service. Therefore, for the officers appointed before 4th May, 1994, the seniority will be determined by the date of confirmation in the service while for those appointed after 4th May,

1994, the seniority has been determined keeping in view, the length of service. However the quota rule as directed by the Hon'ble Supreme Court and High Court has been kept intact while filling vacancies of substantial posts and then assigning seniority for these posts. Table- II depicts the seniority after 4th May, 1994. The seniority list in Table-II is as a consequence of the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994, applicable w.e.f. 4-5-1994 (Rules 6, 8 and 20 of these rules are made applicable) and has been determined keeping quota rule intact as supported by Rule 6 of these rules and it is determined by the date of continuous length of service (not from the continuous length of service) in the ratio of 4:1 of promotes and direct recruits for available vacancies against substantive posts.”

- ix) **That The Officers who were appointed by direct recruitment in the years 2000 & 2002 were occupying their due share of substantive vacancies within direct quota. Accordingly, such officers would be senior to those promotee officers who were promoted against excess quota in their share.**

- x) **The number of substantive post filled is less than 144 as is depicted in Table No. III in the previous list. The reason for the same is that a number of vacancies for direct quota are lying vacant. Now, the revised/amended Table No. III has been prepared out of Table-I and II with 147 names including 27 officers already elevated to IPS. Thus, in PPS Cadre the officer on roll on substantive posts are 120 and 24 vacancies meant for direct recruits are lying vacant. Accordingly, the list in Table-III justify all the 144 substantive posts in the cadre of PPS.**

- xi) **In this connection it is stated that such officers were appointed as DSPs by promotion or direct**

recruitment. Their seniority in the PPS cadre has been determined as per directions of Hon'ble High Court. Therefore, they have been shown in the Seniority List of PPS Officers. Table-III relates to the officers who are in service, this Table has been drawn from the Tables I and II.

- xii) In this connection it is submitted that Sh. Narjinder Singh, PPS and 8 others were given deemed dates promotion w.e.f. 1-12-1989. In the tentative seniority these 9 officers have been shown senior to Sh. Bajwa, but in the final seniority by mistake they have been junior to Sh. Bajwa, therefore, they are required to be placed above to Sh. Bajwa. This mistake has been rectified.
- xiii) In this connection it is submitted that in the seniority list circulated on 16-12-2009, Sh. Tejinder Pal Singh has been shown junior to Sh. H.S.Chahal. As per Gradation list of 1999 date of promotion as DSP of both the officers is as under :-
- | | |
|---------------------------|-----------|
| Sh. Tejinder Pal Singh | 11-7-1988 |
| Sh. Harinder Singh Chahal | 29-9-1988 |
- In the seniority list date of promotion of Sh. H.S.Chahal is written as 29-2-1988, therefore, there is typographical mistake. This mistake has been rectified.
- xiv) The position about the double entries, the fake entries and the errors/mistakes has been looked into and detail (report received from D.G.P. Punjab) and necessary corrections/amendments in the seniority list, wherever required, has been carried out.

Now therefore, Keeping in view the above position and taking a comprehensive view by the competent authority a revised/amended seniority list has been prepared in the following tables which are annexed with these

orders. This revised/amended seniority is subject to the following conditions :-

- a) Any modification/amendment in the inter-se seniority list which may arise out of the review granting deemed dates of promotion.
- b) Decisions of Hon'ble Courts/CAT in any matter pending before these courts.
- c) Decision regarding implementation of the 85th amendment to the Constitution of India.
- d) Any mistake/amendment required to be made out clerical/typographical mistakes detected or any entry not as per office record.

A.R. TALWAR

Dated, Chandigarh
The 7th September 2010

Principal Secretary to Government of Punjab
Department of Home Affairs and Justice

No. 15/157/2008-1H3/3053-55

dated, Chandigarh the 7-9-2010

A copy alongwith its enclosures is forwarded to the following for information and necessary action:-

- 1) The Director General of Police, Punjab, Chandigarh:
- 2) The Additional Director General of Police, Computer & Telecommunication, Punjab, Chandigarh. He is requested to upload this order alongwith its enclosures on the Web Site of the Director General of Police, Punjab, Chandigarh.
- 3) Under Secretary Home (Home-I Branch) for information and necessary action.

(B. S. Kahlon)
Superintendent.

Endst.No.15/157/2008-1H3/3056

dated,Chandigarh the 7-9-2010

A copy alongwith its enclosure is forwarded to the Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New

Delhi-110069 with reference to this department Endst. No. 15/157/2008-1H3/ 3182 dated 16-12-2009.

(B. S. Kahlon)
Superintendent.

Endst.No. 15/157/2008-1H3/3057 dated Chandigarh the 7-9-2010

A copy alongwith its enclosure is forwarded to the Secretary to the Government of India, Ministry of Home Affairs, New Delhi with reference to this department Endst. No. 15/157/2008-1H3/ 3183 dated 16-12-2009. for information.

(B. S. Kahlon)
Superintendent.