


ORDER

1. That the two connected Writ Petitions, CWP 21044 of 2015 (titled as Gurmeet Singh Brar versus State of Punjab and others) and CWP 22330 of 2015 (titled as Sukhraj Singh and others versus State of Punjab and others) are pending in the Hon'ble Punjab and Haryana High Court. In these connected cases, the petitioners have challenged the final seniority list of Planning Officers of the Directorate of Town and Country Planning, Punjab issued, vide memo No. 6789 CTP(Pb)/E-22 dated 25.08.2015.

2. That on 01.10.2015, the Hon'ble Punjab & Haryana High Court passed interim orders in CWP No. 21044 of 2015. The operative part of interim orders is reproduced as below:-

*"In the meanwhile, further promotions are directed not to be made on the basis of the impugned final seniority list till the view of the State Government is known and whether the placement is justified.*

*Further, the respondent Government is free to re-examine the seniority list dated 25.08.2015 [P-11] and take such action as it deems fit in case there is an error apparent on record."*

 Subsequently, in writ petition No. CWP 22330 of 2015, the Hon'ble Punjab and Haryana High Court have passed the interim directions on 16.10.2015. The relevant part of the order of this court is reproduced as below:-

*"Contends that similar matter is pending consideration before this Court in CWP No. 21044 of 2015, which is fixed for 02.11.2015.*

*Notice of motion, returnable by 02.11.2015.*

*Process dasti.*

*To be heard and listed with the aforesaid petition.*

*Interim order in the same terms a copy of which has been placed as Annexure P-13 at page 90 of the paper book."*

3. That as evident from the Interim orders dated 01.10.2015, the Hon'ble Punjab and Haryana High Court has given a liberty to the government to re-examine the seniority list dated 25.08.2015, therefore the government has re-examined the impugned seniority list. After carefully considering all the

relevant instructions of the Government of Punjab issued from time to time as well as the prevailing provisions of Rule-8 (titled as Seniority) of the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994, and a revised provisional seniority list was prepared and circulated, vide endst. No. 7470-90/CTP(Pb)/E-22, Dated 29.08.2017 for information and to invite suggestions/objections, if any, from the concerned Planning Officers.

4. That the petitioners in the above said writ petitions have raised their objections by giving their representations to the Government that the revised provisional seniority list dated 29.08.2017, is again wrong and has not been amended as per rules and facts. Through their respective representations, they have raised a common issue that they should be treated as Planning Officers w.e.f. 12.04.2012 in the seniority list of the Planning Officers and they should be placed above the directly recruited Planning Officers. They have further raised the objections that due to the restructuring of the Department of Town and Country Planning vide memo no. 1/1/2011-3Hg1/1140, dated 12.04.2012, the posts of Junior Engineers have been adjusted into Planning Officers and the posts of Assistant Engineers have been adjusted into Assistant Town Planners. They have contested that since they were working as Assistant Engineer in the department on 12.4.2012, therefore they should be adjusted against the posts of Assistant Town Planners. They have further contested in their representations that the department has adjusted the post of Assistant Engineer to the post of Planning Officer. Whereas the pay scale of Planning Officer is less than the pay scale of Assistant Engineer.

5. That before deciding petitioners aforementioned representations, a personal hearing was given to the objectors on 26.02.2018, so as to redress their grievances/objections. During the personal hearing the petitioners again raised the same objections as mentioned in para no. 4 above. Their objections have been considered as per record available and put forth before the undersigned along with various instructions of the Government of Punjab issued from time to time and rules related to fixing of seniority. It has been observed that the claim of the petitioners is on the basis of letter related to the restructuring of the Department of Town and Country Planning issued vide

memo no. 1/1/2011-3Hg1/1140, dated 12.04.2012, which is silent about any such adjustments. In this letter, it was clearly mentioned that the restructuring of the Department of Town and Country Planning was approved in the cabinet committee meeting held on 24.03.2012 in which it was decided to surrender 193 posts and to create 170 new posts in the Department. Moreover, petitioners were designated as Assistant Engineer with higher pay scale under Assured Career Progression Scheme, as per Finance Department letter No. 7/56/99-5PP1/8014 dated 27.06.2000 and No. 5/138/09-3FP1/881 dated 01.12.2011.

The relevant clause of this notification is reproduced as below:-

*"(iii) With the grant of class-II Gazetted status and designation of Assistant Engineer, there will be no addition to the Cadre strength of Junior Engineers/ Assistant Engineers.*

*(iv) The officials placed in higher scale and the officials granted status of Assistant Engineer as above will continue to discharge the same duties and exercise the same powers."*

As is evident from the above notification Junior Engineers were not given the promotion but were only given the designation of Assistant Engineer with the same nature of work as that of Junior Engineer. Hence, only a monetary benefit is given to the Junior Engineers without any promotion. Being Junior Engineers (designated Assistant Engineers), the petitioners were promoted to the posts of Planning Officers on 22.05.2014 vide order no. 1/29/2013-2HG1/ 226073/1-34 with respect to their seniority in past cadre and the employees shown at serial no. 1 to 8 in the provisional seniority list dated 29.08.2017 were directly recruited on 25.07.2013, vide order no. 1/22/2013-2HG1/ 2032-42 dated 25.07.2013 i.e, before the promotions of petitioners. It is pertinent to mention here that the rule 8 of "The Punjab Civil Services (General and Common Conditions of Service) Rules, 1994", clearly provides the criteria for seniority in case of two or more persons appointed on the same date as under:-

*" a) a person appointed by direct appointment shall be senior to a person appointed otherwise;*

*b) a person appointed by promotion shall be senior to a person appointed by transfer;*

