

Office of the Director of Public Instruction (Secondary Education),
Punjab, S.A.S Nagar.

Order No. 9/131-2018 Estt-3(4) 2019/174572.
Dated, SAS Nagar:-19-06-2019

Keeping in view certain difficulties in preparation of joint seniority of Masters and Mistresses of various subjects, on the recommendations of a Committee constituted for the given purpose, in the year of 2013, it was decided to frame separate seniority of Masters and Mistresses of each subject. However, the said action was challenged in various writ petitions. While deciding CWP No. 185 of 2014 titled as Sweety Badwal and others Vs. State of Punjab and other connected writ petitions, the Hon'ble Punjab and Haryana High Court vide its order and judgement dated 16-12-2016 passed the following directions"

"In view of the consensus arrived at between the rival parties, this Court does not feel appropriate to examine the lis any further on merits. However, in order to bury the controversy, this Court issues the following directions to respondent No.2/Director Public Instructions (Secondary Education), Punjab being the competent Authority, for strict compliance:

- i) A Joint seniority list of all Masters/Mistresses appointed till date i.e 16.12.2016, shall be recasted strictly as per the decision of judgment in Neelam Rani's case (supra) on or before 30.9.2017.*
- ii) The Seniority list will be framed batch-wise and the appointments made from the first batch will be placed senior to the later one and the inter se seniority between same batch mates will be determined on the basis of inter se merit position of a candidate prepared during selection.*
- iii) That as no separate seniority list of Master/Mistresses based on their acquired qualifications in different streams for promotion as Lecturers would be maintained, therefore, the combined seniority list prepared as per the principles stated hereinabove shall be reviewed/updated every year in the month of August to mention the acquired qualification by the Masters/Mistresses, making them eligible for promotion to the post of Lecturers in the subject/stream concerned. A circular will be issued that the Masters/Mistresses, who have obtained/ acquired/ enhanced their qualification, which entitle them to be considered for promotion in respect of any other stream apart from the stream in which they are already working, they will have to mandatorily inform the Department*

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within a period of one month of acquiring the said qualification to enable such addition against their name in the seniority list while updating the same every year in the month of August, failing which, the teacher concerned shall be solely responsible for denial of any right of promotion to the post of Lecturer in the subject concerned. The Directorate of Public Instructions shall also compile, periodically update and publish every year a list of eligible Masters and Mistresses for promotion as Lecturers in the stream concerned, on account of the acquisition of prescribed qualifications for promotion in the stream concerned. A separate list for each stream/subject shall be published;

- iv) A public notice of at least one month in advance for inviting objections before finalizing the fresh Seniority list of Masters/ Mistresses for promotion in respect of different streams, shall be published in three Newspapers (English, Hindi and Punjabi) of wider circulation in the state of Punjab.*
- v) That after fresh seniority list has been framed then promotions, which have been made to the posts of Lecturers in May 2008, May 2012 and July 2016, shall be reviewed. If any candidate is found beyond the seniority and quota shall be reverted and candidates, who are found entitled for any promotion shall be accorded such promotion as Lecturer.*
- vi) Respondent No.2/DPI (SE), Punjab shall incorporate the material particulars of members of the service i.e Name, Father's Name, Designation, Date of Birth, District, Mode of recruitment, Date of appointment, Date of promotion, Date of joining, Present place of posting, Category, Merit number, Percentage of merit, Subject and Special remarks etc, as far as possible in the Seniority List or in any other manner, so as to have complete transparency; Disposed of in the above terms. A photo copy of this order be placed on all the connected cases."*

2. In compliance with the aforesaid directions of Hon'ble Punjab and Haryana High Court, Vide this office order No 16/3-2017 Estt-2(6), Estt-3(4), dated 12-12-2017, a combined seniority of Masters and Mistresses of various subjects working in the Department of School Education was circulated. The said seniority list was challenged by Sh. Kanwaljit Singh and others by filing CWP No. 3491 of 2018. The said writ petition

came up for hearing on 15.2.2018, when, while issuing notice of motion for 19.7.2018, the Hon'ble Court was pleased to pass the following interim order:-

"Contends that the petitioners have been promoted on the basis of their seniority vide order dated 17-05-2012 (Annexure P-6). The case of the petitioners is covered by the judgment passed by Hon'ble Division Bench of this Court in Neelam Rani Vs State of Punjab reported in 2010 (2) RSJ 70 (P&H) (DB).

Notice of Motion for 19-07-2018.

The operation and effect of the final seniority list dated 12.12.2017 (Annexure P-12) shall remain stayed till further orders".

3. In order to consider the contentions put forth by the petitioners of some writ petitions and others and with a view to remove technical deficiencies alleged to have been pointed out by the petitioners and all other relevant factors, the earlier seniority list was withdrawn vide office order No16/3-2017 Estt-2(6), Estt-3(4), dated 08-06-2018. Simultaneously, a Committee consisting of senior officers and officials having sufficient expertise in the matter was constituted vide office order No 16/3-2017 Estt-2(6), Estt-3(4), dated 08-06-2018.

4. While deciding CWP No. 3491 of 2018 titled as Kanwaljit Singh and others Vs. State of Punjab and others, the Hon'ble Punjab and Haryana High Court vide its order and judgement dated 19-07-2018 passed the following directions"

"Vide order dated 8.6.2018, the seniority list in question was withdrawn by the Department. However, during the course of arguments, it has been pointed out by learned senior counsel that repeatedly the seniority lists are being prepared ignoring the norms those ought to have been taken in framing the seniority. The same question arose in CWP-185 of 2014 titled as "Sweety Badwal and others vs. State of Punjab and others" wherein the guidelines for framing the seniority were issued and it has been entrusted to the committee to reframe the seniority. The Committee is directed to prepare a fresh seniority list as per Rules and directions issued by this Court in CWP -185 of 2014. As large number of employees are involved, the Committee shall make as endeavour to finalise the proceedings expeditiously within three months from today. In order to avoid further another round of litigation' initially a tentative seniority list shall be issued. The aggrieved persons shall have the right to represent. Only after deciding the representation so filed by them, the final seniority list be prepared.

Disposed of accordingly,

Since, the main petition has been disposed of, all the miscellaneous applications are rendered infructuous."

5. In compliance with the aforesaid directions of Hon'ble Punjab and Haryana High Court, A tentative seniority list was recast strictly adhering to the above said parameters as laid down by the Hon'ble Court and was uploaded on the official website **www.ssapunjab.org** on 23-08-2018 and 5-11-2018 and 28-05-2019 inviting objections from all concerned quarters. A public notice was also got published in leading newspapers on 25-08-2018 seeking objections. Certain objections like correction of names of concerned employee, place of posting, not assigning appropriate position in the tentative seniority, missing of names/dates of appointment etc. were received. Thereafter, personal hearings were also provided by the Committee on 11-10-2018.

6. Certain objections were also received to the effect that in the year of 1994 and 1996, Masters and Mistresses of various subjects were recruited in response to a single advertisement, therefore, after having clubbed merit of all selected persons of various subjects, a combined merit should be prepared and on the basis of said combined merit, their inter-se seniority be prepared. The said aspect, which constitutes a major portion of objections so received in response to the tentative seniority list, has been looked into in the light of official records. The official records have revealed that in the year 1994 and 1996, the process to recruit Masters and Mistresses of various subjects was initiated by Department. The then Departmental Selection Committee, which was entrusted with the task of making recommendations of eligible and suitable candidates declared results of prospective candidates of various subjects on different dates.

7. As per the directions of Hon'ble High Court in CWP No. 185 of 2014 the Seniority list have to framed batch-wise and the appointments made from the first batch will be placed senior to the later one and the inter se seniority between same batch mates will be determined on the basis of inter se merit position of a candidate prepared during selection.

8. In order to frame the seniority list batch-wise in accordance with the directions of the Hon'ble Court, legal opinion regarding the interpretation of the term 'Batch" was sought from within the department. It was opined 'Batch' denotes entire recruitment through one single advertisement. Thus, the persons recruited through advertisements published in the year of 1994 and 1996 constitute separate 'Batch' as a single unit for the purpose of determination of their seniority

9. In view of the aforesaid factual and legal position, separately all those Masters/ Mistresses who were recruited through the Advertisement published in the year of 1994

have been granted deemed date of their appointments w.e.f. 02-12-1996 and all those Masters/ Mistresses who were recruited through the Advertisement of the year 1996 have been granted deemed date of their appointment w.e.f. 01-01-1997. However, such persons are entitled to be assigned seniority position in the seniority list on the basis of the ranking/ Merit determined by the recruiting agency at the time of their initial selection. Taking cognizance of all these objections, it has been decided to keep the persons appointed in response to advertisement of the year of 1994 senior to the persons appointed through recruitment process initiated in the year of 1996. The seniority list has been re-determined accordingly.

10. In another bunch of objections, some Masters and Mistresses, *inter-alia*, raised objections that initially they were appointed as JBT teachers and subsequently were promoted to the posts of Masters and Mistresses. Therefore, while fixing their seniority in the cadre of Masters and Mistresses, they should be given the benefit of judgment of Hon'ble Supreme Court of India, which is generally known as Janjua-2 Judgement. In this regard, their contention is that in the State of Punjab, 85th Constitutional Amendment came into force with effect from 17-11-2005. Thus, any employee who was promoted to higher post prior to 17-11-2005, was entitled to be assigned seniority in the promotion cadre as per decision of the Hon'ble Apex Court in Ajit Singh Janjua and others Vs State of Punjab 1999 (7) SCC 209. All the claimants have raised a general claim that as per the judgment in Ajit Singh Janjua's case, their seniority as Masters /Mistresses is to be fixed by taking into consideration their dates of initial appointments in the lower cadres i.e. JBT/ETT.

Having considered this aspect, it was observed that it is on the record that in order to implement the judgement of Hon'ble Supreme Court of India rendered in Janjua's case, the State Government issued instructions vide letter No. 3/34/99-3 PPI/12565, dated 22.10.1999. The crux of the judgement of Hon'ble Supreme Court of India is that in case a Junior Scheduled caste employee is promoted prior to a Senior General Category Employee by giving the benefit of reservation, in that case, as and when the Senior General Category employee is promoted, he/she shall stand senior in the promotion cadre to the Scheduled caste employee promoted earlier, provided the Scheduled Caste employee is not promoted further to the next cadre.

That the promotions to the Master cadre are made from the amongst candidates who fulfill all the prescribed qualifications. Further Sh. Hardeep Singh Punjabi Master and Sh. Rajesh Kumar Futela, Hindi Master raised objections, *inter-alia*, that those persons who were junior to them in the feeder cadre as J.B.T, have been assigned seniority above them, but their seniority in the Master cadre

should be fixed by taking into consideration their initial appointment in the lower cadre i.e. J.B.T/E.T.T. in accordance with the judgment of Hon'ble Supreme Court of India in Ajit Singh Janjua and others Vs State of Punjab (Janjua-2).

As per record Sh. Hardeep Singh belongs to General category and was appointed as a J.B.T w.e.f. 28.9.1987. Further he was promoted as Master 12-01-2004 whereas Sh. Sukhwinder Singh who belongs to S.C. category, was appointed as a J.B.T. w.e.f. 04-07-1988 and was promoted as Master on 31-03-1994. Similarly, Sh. Rajesh Kumar Phutela belongs to General category and was appointed as a J.B.T w.e.f. 07-12-1996. Further, he was promoted as Master 25-07-2001 whereas Sh. Hans Raj who belongs to S.C. category, was appointed as a J.B.T. w.e.f. 04-03-1997 and was promoted as Master 30-10-2000.

It is also on record that Sh. Hardeep Singh and Sh. Rajesh Kumar Phutela were not eligible for promotion at the time of promotion of Sh. Sukhwinder Singh and Sh. Hans Raj respectively. Therefore, their claims are not covered in accordance with the judgment of Hon'ble Supreme Court of India in Ajit Singh Janjua and others Vs State of Punjab (Janjua-2).

11. A number of persons, who were earlier appointed under SSA/RMSA/Adarsh Schools etc. and who have been merged in the Department, have been assigned seniority in the following manner:-

- (a) The persons who have opted for regularization of their services in the department in the first batch within permissible time frame as indicated in the notification dated 09-10-2018, have been assigned inter-se seniority with effect from 01-04-2018 keeping in view of length of service in the previous organization.
- (b) The persons who have opted regularisation of their services in the department after the permissible time frame as indicated in the notification dated 09-10-2018 have been assigned seniority in order of date and time, they have exercised their option on the portal especially designed for obtaining the options from the all concerned for regularization of services in the Department or continuance in their respective Societies.

12. While finalizing of seniority of Masters and Mistresses, all such objections have been considered by the said Committee, addressed to and necessary corrections/changes, wherever needed, have been made. Therefore, a combined final

seniority of Masters and Mistresses of various subjects containing serial No. 1 to 59608, the final seniority of Masters and Mistresses working in the Department has been prepared, which is at Annexure-I to this order, is circulated for information and necessary action of all concerned.

13. In case the name of any employee still left to be included in the seniority due to any reasons whatsoever, his/her name would liable to be included at appropriate serial and no further notice to other employees will be given in this regard.

14. However, it is made clear that in case, at any stage, any new fact comes in the notice of the authorities, the said seniority is liable to be modified. It is further clarified that the decisions of Hon'ble competent Courts of law in pending litigation on the issue would also be a binding proposition and accordingly the said seniority would also liable to be modified.

15. The above said seniority along with this office order has also been uploaded on website www.ssapunjab.org for general information of all concerned.

Sukhjeet Pal Singh, PCS

Director of Public Instruction (S.E.) Punjab.

Endst. No. Even./2019/1745/2 Dated: 19-06-2019

A copy of the above is sent to the following for information and necessary action:-

1. Secretary to Government of Punjab, Department of School Education, Punjab Civil Secretariat-2, Chandigarh.
2. Director General School Education, Punjab.
3. Director Public Instructions (EE), Punjab.
4. Director S.C.E.R.T, Punjab.
5. Director Public Instructions (SE), UT, Chandigarh.
6. All Principals In-service Training Centres.
7. All District Education Officer, (SE).
8. Manager M.I.S wing, O/o DGSE, Punjab.

Assistant Director (S.A.-3)