

DIRECTORATE OF SCHOOL EDUCATION (SECONDARY) PUNJAB, SAS NAGAR
PSEB COMPLEX, BLOCK-E, 4TH FLOOR, PHASE-8, SAS NAGAR, 160062
(PROMOTION CELL)

File No: 577848-DPISE-ESTP0ESTB/8/2023-PROMOTION-DPISE

Dated SAS Nagar : 14.05.2024

Vide order dated 15.02.2023 passed in CWP 28434 of 2019 titled Harbhajan Singh and others vs. The State of Punjab, the Hon'ble Court set-aside the Seniority list dated 19.06.2019, and directed the respondents to recast a new Master Cadre seniority list. The relevant extract of the order dated 15.02.2023 is reproduced here as under :-

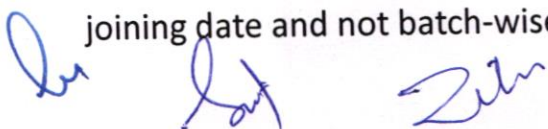
"29. Consequently, all the writ petitions are allowed.

30. The State Government is directed to prepare a fresh seniority list in accordance with the 1978 Rules within a period of 6 months from the date of receipt of a certified copy of this judgment after giving all the affected candidates an opportunity of hearing and filing objections. Moreover, since this batch of writ petitions has been decided without giving hearing to all the affected masters, they shall have liberty to file applications for recall.

31. All the pending miscellaneous applications, if any, are also disposed off."

Observations of the Hon'ble Court with regard to earlier seniority dated 19.06.2019

- I. A Joint Seniority list of all the Masters/ Mistresses Cadre (Male / Female) will be created, irrespective of gender and subject.
- II. According to para No. 10 of the decision, the court highlighted that employees were assigned seniority from a date before they officially joined. Thus, the use of a "deemed date" as a mechanism for establishing seniority for such employees is violation of the rules.
- III. As per the para No. 23 of the decision in CWP 28434 of 2019, the court identified the "Deemed Date of Appointment" as a violation of rules. Accordingly, seniority in the Master Cadre should be based on the actual date of Joining (Length of Service and Merit not to be disturbed).
- IV. A combined seniority list should be created for teachers based on their joining date and not batch-wise.



- V. Teachers promoted to the Master Cadre at the same time will have their seniority determined based on their seniority in the previous Feeder Cadre, merit, and as per various issued instructions.

2.0 Source of Data

- 2.1 This has never happened that the Department of Education has not maintained the seniority of Master Cadre. The seniority of Master Cadre was established by the department earlier till 1987, which was not challenged in any way but it was not maintained in future, resulting in seniority lists being prepared by the department after 1987 in accordance with various court judgments.
- 2.2 Due to various deficiencies in the seniority list dated 19.06.2019, the same was quashed by the Hon'ble High Court vide order dated 15.02.2023. The seniority list initiated on 19.06.2019, began from the year 1973, without any solid justification for this starting point. In this regard, a committee was constituted by the department to take decision to determine the commencement period of seniority and other relevant parameters. It was decided that the structure of the seniority list for the master cadre should align with the department's records available in both regional and head offices, including details of employees working in the state of Punjab since the formation of Punjab on 01.11.1966.
- 2.3 In order to verify the service record of the employees/officers/retirees, appointment records of various periods were obtained from respective schools under the jurisdiction of the concerned District Education Officer (Secondary), using the seniority lists from different periods as the department's basis, in addition that, the earlier seniority list dated 19.06.2019 and MIS Data of the department, was utilized as available data. Record pertaining to the appointments was acquired from the concerned schools to ensure the accurate confirmation of employees' services in alignment with the quashed seniority data. Based on available records, the officers promoted from the Master Cadre to Lecturer/Head Master/Principal, or selected through direct recruitment, or retired, have also been included in this seniority list.

- 2.4 In addition to the above, it is also brought into consideration that the roof of Government Senior Secondary School Baddowal School under Block Ludhiana-2 in District Ludhiana had collapsed, leading to the school building being deemed unfit for opening as per administrative order, so only the provided record of the posted teachers of this school have been recorded.
- 2.5 In conclusion, the department has verified the records of employees from November 1, 1966, to February 15, 2023 and compiled the seniority list of the Master Cadre.
- 2.6 **Draft Seniority**

Upon receiving the available record, the department periodically issued a public notice through nationalized newspapers to invite objections from the concerned employees/retirees. Simultaneously, the draft seniority list of the master cadre seniority was published in five parts on the official website.

In response to the notices, the department received approximately 9500 objections regarding their service credentials and their elevation according to the deemed date as in the previously quashed seniority. After reviewing and resolving these objections, the department amended the credentials accordingly and thus considered to be redressed. It is submitted that the parameters mentioned in the old seniority list are not being adopted by the department.

Apart from the aforementioned concerns, Sh. Randhawa Singh, Principal of Government Senior Secondary School Balpur, District Fatehgarh Sahib, has raised an objection that he and other connected employees have rightly being given the deemed date of 01.01.1997 as they were restrained from joining despite being selected in an advertisement dated 12.01.1996. He stated in his detailed application that during the recruitment process, the department had cancelled the candidature of some candidates whose eligibility criteria did not meet the cut-off date. This issue was adjudicated by the Hon'ble Supreme Court of India in CA No. 6750 of 1999 titled Bhupinder Pal Singh and others vs. State of Punjab and others, decided on 01.05.2000. The Court ordered that petitioners who fulfilled the qualifications by 31.10.1996 are entitled to appointment. The said plea was

considered in the light of observations made in the decision dated 15.02.2023. After thorough consideration on the objections, the department uploaded the provisional seniority list.

3.0 Basic Rules of Determining the Seniority in Public Services

3.1 Seniority parameter under -

The Punjab State Education Class III (School Cadre) Service Rules, 1978

Rule 11

11. The seniority in each cadre of the Service shall be determined on the basis of continuous length of service on a post in that cadre of the service

Provided that

- (i) in the case of members recruited by direct appointment the order of merit determined by the Commission, the Board or any other recruiting authority, as the case may be, shall not be disturbed.
- (ii) in the case of two or more members appointed on the same date seniority shall be determined in the following manner :-
 - (a) a member recruited by direct appointment shall be senior to a member recruited otherwise;
 - (b) a member appointed by promotion shall be senior to a member appointed by transfer;
 - (c) in the case of members appointed by promotion or transfer, seniority shall be determined according to the 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 drawn a higher rate of pay in his previous appointment; and if the rates of pay drawn are also the same, then by their length of service in those appointments; and if, the length of such service is also the same, an older member shall be senior to a younger member.

Note Seniority of members appointed on purely provisional basis, shall be determined as and when they are regularly appointed keeping in view the date of such regular appointment.

3.2 Seniority parameter under -

Punjab Civil Services (General and Common Conditions of Services) Rules, 1994, ibid with The Punjab Educational (Teaching Cadre) Group C Service Rules, 2018

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Rule 8

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 the Service:

Provided that in the case of persons recruited by direct appointment who join within the period specified in the order of appointment or within such period as may be extended from time to time by appointing authority subject to a maximum of four months from the date of order of appointment, the order of merit determined by the Commission or the Board, as the case may be, shall not be disturbed:

Provided further that in case a person is permitted to join the post after the expiry of the said period of four months in consultation with the Commission or the Board, as the case may be, his seniority shall be determined from the date he joins the post:

Provided further that in case any person of the next selection has joined a post in the cadre of the concerned Service before the person referred to in the preceding proviso joins, the person so referred shall be placed below all the persons of the next selection, who join within the time specified in the first proviso:

Provided further that in the case of two or more persons appointed on the same date, their seniority shall be determined as follows : -

- (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;
- (c) in the case of persons appointed by promotion or transfer, the seniority shall be determined according to the seniority of such persons in the appointment from which they were promoted or transferred ; and
- (d) in the case of persons appointed by transfer from different cadres their seniority shall be determined according to pay, preference being given to a person who was drawing a higher rate of pay in his previous appointments; and if the rates of pay drawn are also the same, then by their length of service in these appointments; and if the length of such service is also the same, an older person shall be senior to a younger person :

*"Provided further that in the case of persons recruited by direct appointment in the same cadre obtaining equal marks, during same selection process, their inter-se-seniority shall be determined on the basis of their age. That is, an older person shall be senior to the younger person."

Note.- Seniority of persons appointed on purely provisional basis or on *ad hoc* basis shall be determined as and when they are regularly appointed keeping in view the dates of such regular appointment.

3.3 As stated above, it is evident that the fundamental principles for determining seniority in public service are commonly adhered to as follows:

- I. Seniority should be assigned upon regular appointment, considering the terms and conditions of the advertisement and appointment letter.
- II. Seniority is primarily based on the date of entry into service through a regular appointment. Employees who enter service earlier are generally considered senior to those who joined later. In such scenarios where employees are recruited from various sources (e.g., direct recruitment, promotion), seniority is being determined using a specific methodology that ensures fairness and equality. This methodology often takes into account factors such as the length of continuous service within a specific cadre, rank/merit, and age, arranged hierarchically to establish the seniority.
- III. Seniority may also be influenced by the order of promotion. Employees promoted earlier are typically given higher seniority over those promoted later. In contexts where reservations apply, seniority may be adjusted to adhere to the reservation policies.
- IV. In instances involving court precedents related to the appointment of candidates, seniority issues must be resolved according to the precise interpretations of such judicial decisions and judgments by various levels of Honorable courts.

3.4 The method of recording seniority in both the 1978 and 1994 rules remains fundamentally the same constitutionally. However, the 1994 rules introduced an extension, allowing a maximum period of four months from the date of issuing the appointment letter for joining, ensuring that the order of merit remains undisturbed.

4.0 Parameters adopted for various Recruitments involved in this Seniority List

4.1 Adhoc Services

Before 1990, a significant number of adhoc employee services were regularized by the department from time to time. Accordingly, perusal of the records received in these cases, the details of these employees/retirees were recorded in seniority from the date of regular appointment/confirmation of their services, but their hierarchy has to be maintained while giving them inter se

positions at the date of regularization. The employees who have been appointed in the department through direct recruitment have been entered in the seniority list keeping in mind their sequence/date of joining concerning their orders.

4.2 Advertisement dated 28.12.1994 and 12.01.1996

The department advertised the posts through advertisement dated 28.12.1994 and 12.01.1996. After declaring the result, the appointment letter was not issued on the same day. During the recruitment process, department cancelled the candidature of some candidates whose eligibility criteria was not as per cut off date. That issue was decided by the Hon'ble Supreme Court of India in CA No. 6750 of 1999 titled as Bhupinder Pal Singh and others vs. State of Punjab and others decided on 01.05.2000, vide which the Hon'ble Court ordered that the petitioners who have fulfilled the qualification by 31.10.1996 are entitled for the appointment. The extract of the orders are hereby reproduced as under :-

"For the foregoing reasons all the appeals are allowed. The judgement of the High Court, to the extent of which it has dismissed the writ petitions filed by such petitioners who were the selected candidate, is set aside. CWP 356/99 filed in this court is also allowed. It is directed that such of the selected candidates as have already been issued appointment letters shall forthwith be issued posting order at the earliest, say within a maximum period of two months from the date of this order. Those who have already been posted shall continue with their appointments. The appeals and the writ petition are disposed of accordingly. No order as to the costs.

(S. Rajinder Babu)

(R. C. Lohad)

New Delhi

May 1, 2000"

In compliance with the orders of Hon'ble Supreme Court of India department gave the appointment in the year 2000 but their seniority was fixed on 01.01.1997 by giving the deemed dates vide order No. 20/79-2001 Estt.11(6) dated 26.09.2012 in the case of CWP 19832 of 2003 titled as Charan Dass Sharma and ors vs. State of Punjab.

Actually, the concerned candidates after obtaining their appointments would be elevated as per merit/joining but their seniority will be fixed on 01.01.1997 as a deemed date of appointment. It is submitted that department has

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not issued any appointment letter on 01.01.1997 (deemed date) in the concerned subject.

Apart from the above vide order dated 19.06.2019 department issued a Master Cadre Seniority, vide which the department framed the seniority list, and the persons recruited through advertisement published in the year 1994 and 1996 constitute separate Batch as a single unit for the purpose of determination of their seniority and granted deemed date to their appointment w.e.f 02.12.1996 for the advertisement year 1994 and 01.01.1997 for the advertisement year 1996. The seniority position of these employees was assigned on the basis of the ranking/merit determined by the recruiting agency.

As per the para No. 23 of the decision in CWP 28434 of 2019 titled as Harbhajan Singh and others vs State of Punjab, the court identified the "Deemed Date of Appointment" as a violation of rules and quashed the seniority list on 15.02.2023. Accordingly, seniority of the employees of concerned advertisement should be based on the actual date of Joining (Length of Service and Merit not to be disturbed).

With reference to orders of Hon'ble Supreme Court of India in 6750 of 1999 titled as Bhupinder Pal Singh and others vs. State of Punjab and others, after go through the orders, the concerned petitioner who were given the appointment in the year 2000 and 2001 has to be assigned the seniority as per merit of the concerned advertisement.

4.3 Subordinate Service Selection Board Advt dated 13.06.2006

On the requisition of the Department, the Subordinate Service Selection Board issued the advertisement dated 13.06.2006. The seniority position of these appointed employees was assigned on the basis of the ranking/merit determined by the recruiting agency.

Apart from the above, there is an SLP (C) No 80-84 of 2013 titled as Rakesh Kumar & Others and other connected cases pending with the Supreme Court of India. The Administrative orders on final decision of the courts in this case will be applicable to the recruitment.

**4.4 Advertisement dated 29.08.2007,23.09.2009, 07.05.2011
(contractual Appointment)**

Department has published different types of advertisement on Contractual term such as Service Provider dated 29.08.2007, 7654 Master Cadre dated 23.09.2009, and 5442 Master Cadre dated 07.05.2011 and regularized their services before completing their contractual tenure on 01.04.2011, 06.04.2014 and 15.01.2016 respectively.

As per the basic rules of seniority, the Seniority should be assigned upon the regular appointment, considering the terms and conditions of the advertisement and appointment letter.

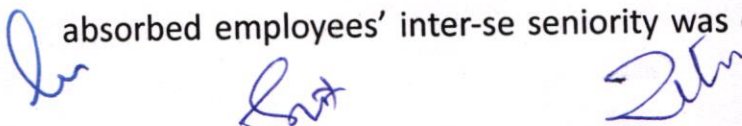
As per advertisement, Initially, the positions of employees were contractual, with the stipulation that after three years of service as per terms and conditions of advertisement and appointment letter. After completing three years of contractual tenure could consider for regular appointment. However, candidates' services were regularized before the completion of the contractual tenure. Thus, seniority for these employees was established based on their inter-se merit/ranking as assessed by the recruiting agency upon fulfilling their contractual tenure.

4.5 Advertisement dated 20.11.2015 (6060 Master Cadre)

On 20.11.2015, a recruitment notice for Regular appointment of Master Cadre in different subjects were issued. The process of this advertisement was concluded by the hon'ble Punjab and Haryana High Court in C.W.P. No. 22959 of 2016 titled as Gurjinder Singh and others and other connected cases, with a decision given on 17.02.2023. Following this verdict, appointment letters were accordingly issued to the eligible petitioners, according to the cut-off merit. Their seniority will be determined and recorded on the basis of their merit and/or joining as specified in the appointment letter.

4.6 Absorption of Contractual Employees of SSA/RMSA/Adarsh School.

A number of persons, who were earlier appointed under SSA/RMSA/Adarsh Schools etc. and who have been absorbed in the Department vide notification dated 09.10.2018 w.e.f. 01.04.2018. Vide notification dated 09.10.2018 all the absorbed employees' inter-se seniority was exercised as per their online options



through portal. Thus the criteria of seniority on the basis of click did not fit under the settled rules of seniority, because according to the option, a junior employee appointed later would be elevated to a higher level. Thus, seniority of these employees will be fixed as per inter-se seniority in view of the length of services and merit as assessed in the previous organization.

4.7 Apart from above, the seniority of the employees appointed by the department in different advertisement will be fixed by considering their merit and date of joining.

5.0 On the aspect of Reservation

Having considered this aspect, it was observed that it is on the record that in order to implement the judgment of Hon'ble Supreme Court of India rendered in Januja's case, the State Government issued instructions vide letter No. 3/34/99-3 PPI/12565, dated 22.10.1999. As per the judgment in Ajit Singh Januja's case, the seniority as Promoted Masters /Mistresses is to be fixed by taking into consideration their dates of initial hierarchy in the feeder cadres.

In connection with the aforementioned, the department has updated the seniority list to reflect the promoted employees from their dates of joining. With regard to the cases of these Master Cadre promotions, C.W.P. No. 10221 / 2016 involving Sewak Singh and other related cases remain pending before the Hon'ble High Court. In light of these cases, the department is currently reviewing the promotion instances within the Master Cadre. Through this review process, adjustments will be made to the promotion dates of the employees in the Master Cadre who have already been promoted, and candidates who were not previously considered for promotion may now become eligible.

The process for reviewing promotions within the Master Cadre will be concluded shortly, and relevant employees will be promoted based on the hierarchical structure of the feeder cadre and will subsequently be elevated in the Seniority List.

6.0 Procedure of Appeal

An appeal against official orders is a formal request for the review of a decision made by an authority. This process is vital for ensuring fairness and

accountability in administrative decisions. It is intimated that if any employee having Certain objections like correction of names of concerned employee, place of posting, not assigning appropriate position in the seniority, he/she may also submit their objections to the Director, Director of School education, (Secondary) Punjab, SAS Nagar, within 21 days from the publishing/uploading of this seniority.

If he/she is not satisfied from the reply, he/she may go for an appeal after redressal by the issuing authority, he/she may approach the Administrative Secretary in Charge via appeal.

7.0 Once the Seniority of Master Cadre is officially confirmed, service and financial benefits of the employee will be considered notionally as per his/her new elevation in the Seniority list. Moreover, it is also intimated that

- No reversion/Demotion till the finalization of the Seniority of Lecturer Cadre should be carried out.
- No recovery/ no re-pay fixation / and no payment of arrears should be done regarding elevation of employes in the seniority list.
- Similarly, no Senior/Junior pay parity case will be resolved till further orders.
- It is also intimated that the seniority list will be revised every year, the process will start from September till December and the employees recruited / promoted / retired / terminated till 31st March of the same year, will be elevated and uploaded in Seniority List.


8.0 While finalizing the 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 98850, the final seniority of Masters and Mistresses in the Department has been prepared, which is at Annexure-I (Provisional Master Cadre Seniority dated 14.05.2024) to this order, is circulated for information and necessary action for all concerned.

9.0. 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.

10.0 It is apprised here to mitigate the litigation, 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 be liable to be modified.


11.0 The enclosed seniority list describing the aforesaid parameters is hereby uploaded on the official website www.ssapujab.org for general information of all concerned.


Director, Directorate of School Education
(Secondary) Punjab, SAS Nagar.

Endst. No Even, Dated: 2024/32311-18
29.05.2024

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

1. PA to Secretary, for the kind information of Secretary School Education, Punjab, Mini Secretariat-2, Sector -9 Chandigarh alongwith the Provisional Seniority List.
2. The Director, O/o Directorate of School Education (Elementary), Punjab. (through website)
3. The Director, SCERT, Punjab, SAS Nagar. (through website)
4. All District Education Officer (S.E) (through website)
5. All District Education Officer (E.E.) (through website)
6. All Principals In-service Training Centres (through website)
7. All Principal/Head Master/DDO and concerned Clerks in the school (through website)
8. Deputy Manager (M.I.S.) O/o DGSE, Punjab.


Director, Directorate of School Education
(Secondary) Punjab, SAS Nagar.