

PETITIONER:  
H.L. RANDEV AND ORS.

Vs.

RESPONDENT:  
HIGH COURT OF PUNJAB AND HARYANA AND ORS.

DATE OF JUDGMENT 01/11/1990

BENCH:  
RAMASWAMY, K.  
BENCH:  
RAMASWAMY, K.  
SAWANT, P.B.  
SAWANT, P.B.

CITATION:  
1990 SCR Supl. (2) 527 1991 SCC Supl. (1) 47  
JT 1990 (4) 368 1990 SCALE (2) 940

ACT:

Punjab Superior Judicial Service Rules, 1963: Rules 2(2), 8 and 12--Fixation of seniority--Promotees and direct recruits--Direct recruits appointed to vacancies in their quota--Their seniority to commence from date of appointment--Not on completion of probation.

HEADNOTE:

The appellants in this case were promotees while respondents 2 to 12 were direct recruits, both belonging to the Punjab Superior Judicial Service. Pursuant to the directions given by this Court in B.S. Yadav's case (1981) 1 SCR 1024, the High Court prepared a provisional seniority list and invited objections to the same. Since no objections were received, the seniority list was finalised.

The appellants filed an application before this Hon'ble Court for direction to the High Court to fix the seniority correctly as per the decision in B.S. Yadav's case. This Court rejected the application, holding that it was wholly misconceived as it purported to challenge the seniority list on the ground that there was non-compliance of the directions of this Court. This Court gave liberty to the appellants to move the High Court, and the appellants filed a Writ Petition before the High Court challenging the seniority list. The High Court dismissed the same in limine.

Aggrieved, the appellants preferred the present appeal contending inter alia that the seniority of respondents who were appointed prior to the 1976 amendment to the Punjab Superior Service Rules, 1963, could have been determined only from the date of their confirmation; that the probation of direct recruits being two years, their seniority would count from the date they complete probation and not from their dates of appointment; that the benefit of continuous officiation under the amended Rules was denied to the appellants, although they were also appointed prior to the amendment of the Rules.

Dismissing the appeal, this Court,  
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HELD: 1.1 Under the definition of the "cadre post" as per Rule 2 of the Punjab Superior Judicial Service Rules, 1963 prior to its amendment in 1976, the temporary posts did

not form part of the cadre. They became part of the cadre only after the amendment. There was a quota of recruitment between the promotees and directed recruits. Admittedly, the appellants were not appointed in their quota. Hence till the amendment of December 31, 1976, the appellants were not members of the service and they were also not appointed to the posts according to Rules. The appellants became members of the service only after their appointment in the cadre posts after 31st December, 1976. Hence, their seniority under the amended Rules could not have been counted from any date anterior to such appointments. As against this, the respondent-direct recruits were appointed in the cadre posts according to their quota. Under the amended Rules, therefore, their seniority was rightly counted from the date of their appointment. [531G-H; 532A]

1.2 The seniority list prepared by the 'High Court is also not in conflict with the direction given by this Court. Both the appellants and respondent-direct recruits were to be confirmed with effect from the dates on which vacancies became available to them in their respective quotas. Although direct recruits completed their probation period later, they were from the inception appointed in the vacancies which were available to them in their quota. [532E-F]

B.S. Yadav and Ors. etc. v. State of Haryana and Ors. etc., [1981] 1 SCR 1024, referred to.

2. 'The argument that even if the seniority of the appellants is to be reckoned from 1st January, 1977, i.e., the date immediately after coming into operation of the amended Rules, some of the appellants would have become senior to the direct recruits who were confirmed much later, is deceptive, for while it seeks the application of the amended Rules to the appellants, it denies their application to the direct recruits. If according to amended Rules, the continuous officiation in service is to be counted only from the date of appointment in the cadre post, then the direct recruits having been appointed in the cadre post, their seniority will have also to be counted from their date of appointment. So counted they will be senior to the appellants. [532C-E]

JUDGMENT: