

Sub: **Redetermination of Seniority of Punjab Police Service (PPS) Officers consequent to implementation of Judgment dated 02.11.2018 of the Hon'ble Punjab & Haryana High Court in CWP No.6801 of 2013 titled Gurdial Singh &Ors. Versus State of Punjab & Ors.**

1. The seniority of Punjab Police Service (PPS) Officers was earlier circulated as under:-

- (i) Government letter dated 19.12.2011 for seniority of PPS Officers appointed/promoted prior to 04.05.1994.
- (ii) Government letter dated 29.01.2013 for seniority of PPS Officers appointed/ promoted after 04.05.1994.

2. The seniority lists of 2011 and 2013 were challenged by the promotee PPS Officers in a bunch of Civil Writ Petitions (CWPs) in the Hon'ble Punjab & Haryana High Court. The Hon'ble High Court clubbed all these CWPs and passed a detailed Order in CWP No.6801 of 2013 titled Gurdial Singh &Ors. Versus State of Punjab &Ors. quashing the existing seniority lists of DSPs dated 19.12.2011 and 29.01.2013 and directing the State Government to frame new seniority lists as per the directions contained in para 41 of the judgment which is reproduced below:-

"41. Consequently, the present Civil Writ Petitions are allowed, the impugned Seniority Lists dated 19.12.2011 and 29.01.2013 are set aside alongwith all orders of confirmation with the following DIRECTIONS:-

1. The State Government shall exclude the names of the Officers / DSPs occupying posts before 01.12.1959; and seniority from 01.12.1959 to 04.05.1994 shall be assigned in consonance with the provisions of Rule 10 of the 1959 Rules by :

- (a) Firstly, determining the vacancies of Deputy Superintendents of Police (whether against a temporary or permanent post) available and filled in any manner between 01.12.1959 to 04.05.1994 and place the appointed officers / DySPs to / against the said vacancies from the initial date, on principle of 4 : 1 (Four Promotees followed by One Direct Appointment) and the confirmation being followed on the same principle of 4 : 1 between the Promotee and the Direct Appointment respectively subject to the Promotee fulfilling the eligibility conditions for the

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said post (except where exempted by relaxation) and appointment having been validly made. The Officers / DySPs shall be assigned seniority in the order of confirmation so arrived at upto the total sanctioned posts (both permanent and temporary) as on 04.05.1994. This would be so because, no doubt, the confirmation has been de-linked from availability of permanent post in the quota, however, availability of sanctioned post, be it temporary or permanent would still be required for confirmation.

- (b) No seniority shall be assigned to any Officer, validly appointed, prior to his joining in the Cadre of DySP on temporary or permanent basis. If there is non-availability of Officer in the sequence of 4:1 at the relevant place/stage of the list of recruitment/ confirmation then a gap would be kept on such vacancy.
- (c) When all the vacancies as determined between 01.12.1959 to 04.05.1994 are filled and seniority assigned on the aforesaid principle, then the seniority list of DySP appointed upto 04.05.1994 will be frozen. Some officers whether Promotee or Direct Appointment who remain to be adjusted, shall spill over to be governed by the rule of seniority as per the provisions of the 1994 Rules.

2. For the vacancies available as on 04.05.1994 and arising thereafter shall be determined and the persons appointed shall be assigned seniority on the basis of continuous length of service against the post available in their quota. The State Government shall assign seniority w.e.f 04.05.1994 based on the continuous length of service on the post, both permanent or temporary in the Cadre subject to availability of that post within the assigned quota of 80% for promotee and 20% for direct appointee. There will be no applicability of principle of 4:1 between the Promotee or the Direct Appointment post 04.05.1994 for the purpose of fixing seniority;

3. The State Government while filling up the vacancies for both the aforesaid categories shall also give due regard to the percentage of reservation as per the Reservation Policies, applicable at relevant times and implemented through the roster points;

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4. *The State Government is directed to re-frame the seniority list on the aforesaid principles and conclude the exercise within the period of TWO MONTHS from the receipt of the certified copy of the order.*

5. *The re-framing of the seniority if resulting into reversion in rank or re-fixation of pension on a lower rank / scale shall not affect the pension of the retired officers and the rank of the serving officers and shall not result into reversion. The serving Officers who have earned higher rank and pay on existing seniority list and are effected by the re-framing shall hold their rank and pay on personal basis till they earn such rank and pay as per placement in the re-assigned seniority. But such protection of the rank held by such officers shall be without the benefit of seniority for further promotion henceforth, which shall be earned only on the basis of the re-assigned seniority;*

6. *Since the matter has been deliberately delayed by the Respondent State by not following the principles enunciated and Rules framed, any further delay from the time bound directions mentioned above by the Authorities concerned will make such Authorities liable to be hauled up for contempt and compensatory costs will be personally borne by them."*

Seniority of PPS Officers appointed upto 04.05.1994:

3. In the Seniority lists of 2011 and 2013, the principle of 4:1 (4 promotees followed by 1 direct appointee) was strictly followed, both for appointment/promotion and confirmation. If a directly appointed candidate was not available, then the gap was not filled up and the promotees who were promoted at that time, had to wait for arrival of a directly recruited candidate before they were assigned seniority. The directly recruited candidate recruited much later was placed against his point above the promotee officers who were promoted much earlier. This resulted in loss of seniority for a period varying from 5 to 10 years for the promotee

officers. This principle has been modified as is evident from condition 1(b) of sub-para1 of para 41 of the judgement whereby it has been held that if a candidate is not available in the sequence of 4:1, then a gap would be kept on such vacancy.

4. The Hon'ble High Court has directed that vacancies of DSPs be determined both against permanent as well as temporary posts from 1959 to 1994. There is some difficulty in determination of vacancies. Firstly, there is no record of temporary posts from 1959 to 1974. Secondly, the record of vacancies before 1974 is reported to be missing and FIR No.218 u/s 380 IPC was got registered at Police Station Secor:3, Chandigarh. Thirdly, large number of Officers were shifted in 1966 out of Joint Punjab during reorganization of the State and the details of the Officers are not available.

5. However, the details of temporary and permanent posts and the employees promoted or appointed are available from 01.01.1977 onwards. The gradation lists from 1977 onwards are available and the record of promotions and direct appointments is also available. Accordingly, the determination of seniority from 01.01.1977 has been attempted. It is relevant to mention that the shifting of date from 1959 to 1977 will not have any impact on the inter-se seniority of Officers appointed upto 04.05.1994. Inter-se seniority is to be determined with reference to the date of confirmation within the respective quotas for direct recruitment and promotion. The order of confirmation would also follow as per the order of appointment unless confirmation of a candidate is delayed for want of adverse record since the judgement allows a gap to be kept if a candidate is not available in the 4:1 sequence.

6. In the seniority list of 2011, the confirmation was only against the permanent posts and confirmation of only promotee officers was delayed beyond 2 years mainly on account of non-availability of directly recruited candidates as per 4:1 sequence. In the 2011 seniority list, directly recruited candidates were confirmed after 2 years of their appointment since more than adequate number of posts were available in the quota for direct candidates. Now, the Hon'ble High Court has held that if a candidate is not

available as per 4:1 sequence, then a gap be kept on such vacancy and seniority be continued. It is accordingly felt that both the promotee and directly recruited candidates be deemed to be confirmed after 2 years from the date of appointment unless the confirmation is delayed on account of adverse record. Accordingly, to summarise, the inter-se seniority of both the directly recruited and promotee officers would be as per the deemed date of confirmation and in the order of their appointment unless the confirmation of an officer was delayed for want of adverse report.

7. As held by the Hon'ble High Court and as done previously, the seniority of PPS Officers has been divided into 2 parts i.e., one part is in respect of those appointed upto 04.05.1994 and second part for those appointed thereafter. As mentioned above, as per Rules 1994, the seniority of PPS Officers appointed before 04.05.1994 is linked to the date of confirmation. For Officers appointed between 1992 and 1994, this criteria would create some problem. For example, Officers appointed on or after 03.05.1992 would be eligible for confirmation after 2 years, on or after 04.05.1994 i.e. they would get their seniority below the officers appointed in 1994 and 1995. The Hon'ble High Court, as explained above, had held that seniority of officers appointed before 04.05.1994 be frozen and only those who remain to be adjusted i.e., who are in excess of the sanctioned posts shall spill over to be governed by the rule of seniority as per provisions of 1994 Rules. It has accordingly been decided that Officers appointed between 03.05.1992 and 04.05.1994 be deemed to be confirmed as on 04.05.1994.

It may accordingly be seen that based on the above assumptions and the directions of Hon'ble High Court, the seniority of officers appointed before 04.05.1994 will be more less in the order of date of their appointment unless confirmation of some officers is delayed on account of adverse record. However, actual seniority will be from the date of confirmation.

8. The Hon'ble High Court has further held that Officers appointed before 04.05.1994 will get seniority only if posts are available and the surplus officers whether promotee or direct appointees who remain to be adjusted,

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shall spill over the transition date of 04.05.1994 and governed by rules of seniority as per the provisions of the 1994 rules. The number of surplus officers who would remain to be adjusted is, therefore, required to be worked out. PPS cadre comprises of SPs and DSPs and the total number of sanctioned posts and Officers in position as on 04.05.94 is given as under:-

Position as on 04.05.1994

Description of Post	No.of Sanctioned Post	No.of Officers in Position	Sanctioned Quota		Quota-wise Position	
			Direct Recruits	Promotees	Direct Recruits	Promotees
SP	58	58	12	46	15	43
DSP	374	362	75	299	35	327
Total	432	420	87	345	50	370

Direct recruits deficit : 87-50 = 37 posts

Promotees in excess: 370-345 = 25 posts

From the above, it may be seen that as on 04.05.1994, against total number of 432 sanctioned posts of both the promotee and directly recruited PPS officers, only 420 officers (comprising of promotee and directly recruited PPS officers) were in position and no officer was in excess of overall strength and therefore, there would be no spill over. A copy of the Seniority List of Officers appointed before 04.05.1994 is placed at **Annexure-A**.

Seniority of PPS Officers appointed after 04.05.1994:

9. The principle for determination of seniority for officers appointed after 04.05.1994 is simpler. The officer would get seniority from the date of appointment if the post is available in the respective quota i.e. 80% for promotees and 20% for direct appointees. As on 04.05.1994, as submitted in the above table, against 432 posts, 420 officers were working. However, there is a mis-match between promotees and direct recruits quotas. Against 87 posts earmarked for Direct Recruits only 50 officers were posted. However, against 345 posts of promotees, only 370 officers were posted giving a surplus of 25 posts.

10. 21 officers were appointed through direct recruitment in August & November, 1994 and since there are sufficient number of vacancies in Direct Recruits quota, they would get seniority from the date of their appointment.

Officers who were promoted immediately after 04.05.1994 will not get seniority from their date of appointment on account promotee officers being in excess of their quota. Unless and until, adequate number of promotee PPS officers retire or vacate their position and the number of promotee PPS officers fall below 345, the officers appointed immediately after 04.05.1994 will not get seniority. The first officer to be promoted after 04.05.1994 would be Shri Surinder Singh No. 13/CID who was promoted on 08.03.1995 and as can be seen from the seniority list at Annexure-B, he will get seniority w.e.f. 08.03.1995. The seniority of Direct Recruits and Promotee Officers would, thereafter, be granted on 80:20% basis. A copy of the Seniority List of Officers appointed after 04.05.1994 is placed at **Annexure-B**.

Confirmation Dates:

11. The office of DGP and Special Secretary Home (S) are requested to list the names of officers whose confirmation was delayed on account of adverse record.

Inviting Objections:

12. The tentative Seniority Lists placed at Annexure A and B are being circulated and the **officers are given time upto 23.01.2020** for submitting their objections/comments, if any.