

**Government of Punjab
Department of Home Affairs & Justice
(Home - 3 Branch)**

SPEAKING ORDER

Sub: Revised seniority list of Punjab Police Service (PPS) officers as per order dated 02.11.2018 of Hon'ble Punjab & Haryana High Court in CWP No.6801 of 2013 titled Gurdial Singh & Others.

1. The seniority of Punjab Police Service (PPS) officers, both Promotees and Directly Recruited officers is to be redetermined as per the order dated 02.11.2018 of the Hon'ble Punjab & Haryana High Court in CWP No.6801 of 2013 titled Gurdial Singh & others Vs. State of Punjab & others. The tentative seniority list was circulated on 18.12.2019 and objections were to be filed by 23.01.2020. In all 36 number of objections were received and the officers concerned were also given a personal hearing by Additional Chief Secretary (Home) on 15.02.2020. Based on the directions of the Hon'ble High Court, tentative seniority list and the objections received, seniority of PPS officers is redetermined as explained in the following paragraphs.

2. The seniority of Punjab Police Service (PPS) officers was earlier circulated as under:

- (i) Vide Government letter dated 19.12.2011 for seniority of PPS officers appointed/promoted prior to 03.05.1994.
- (ii) Vide Government letter dated 29.01.2013 for seniority of PPS officers appointed/promoted after 03.05.1994 and upto 31.07.2004.

3. 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 CWPs were clubbed and a detailed order in CWP No.6801 of 2013 titled Gurdial Singh & others versus State of Punjab & others was passed quashing the existing seniority lists of PPS officers 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 are reproduced below:

Rajm Arora

"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 03.05.1994 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 03.05.1994 and place the appointed officers / Dy.SP.s 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 said post (except where exempted by relaxation) and appointment having been validly made. The Officers / Dy.SP.s shall be assigned seniority in the order of confirmation so arrived at upto the total sanctioned posts (both permanent and temporary) as on 03.05.1994. 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 Dy.SP 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 03.05.1994 are filled and seniority assigned on the aforesaid principle, then the seniority list of Dy.SP appointed upto 03.05.1994 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;*

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 affected 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 03.05.1994:

4. Seniority of officers appointed upto 03.05.1994 is linked to the date of confirmation. 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 confirmed and assigned seniority. A 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 clear from condition 1(b) 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.

5. 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. The Hon'ble Court has further directed that confirmation be made both against permanent and temporary posts but only upto the total sanctioned posts.

There is some difficulty in determination of vacancies. Firstly, there is no record of temporary posts from 1959 to 1974 since no officer was confirmed against temporary posts. Secondly, the record of vacancies before 1974 is reported to be missing and FIR No.218 dated 20.10.2011 u/s 380 IPC was got registered at Police Station Sector 3, Chandigarh. Thirdly, large number of officers were shifted in 1966 from Joint Punjab during reorganization of the State and the details of the officers are not available.

Even while finalising the seniority dated 19.12.2011 which has now been quashed by the Hon'ble High Court, it was noted that the record from 1959 to 1974 was not available and the seniority and confirmation are based on the report of Middha Committee which was constituted by the State Government for implementation of the Order dated 22.03.1979 of the Hon'ble Supreme Court. The Middha Committee did not take into account the temporary posts since at that time, the seniority and confirmations were given only against the permanent posts but now as per Order dated 02.11.2018 of the Hon'ble High Court, the seniority is to be determined both against permanent and temporary posts.

6. However, the details of temporary and permanent posts and the employees promoted or appointed are available from 01.01.1977. 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 shifting of date

Papin Chandho

from 1959 to 1977 will not have any impact on the inter-se seniority of officers appointed upto 03.05.1994. If the total number of officers appointed/promoted is within the total sanctioned strength, then it is immaterial whether the seniority is started from 01.01.1977 or 01.01.1959 since inter-se seniority shall remain the same.

The Hon'ble Court has now allowed a gap to be kept if an officer is not available in 4 :1 sequence. Therefore, the order of confirmation would also follow the order of appointment unless (a) total number of officers appointed and promoted are in excess of the total cadre strength/sanctioned posts; and (b) confirmation is delayed on account of adverse service record.

The Hon'ble High court has directed that in the event of non-availability of officers, gap be kept. There are no restrictions as to how this gap is to be treated and the only restriction imposed is that the number of officers appointed and promoted have to be within the total sanctioned posts, both temporary and permanent.

7. 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 on account of non-availability of directly recruited candidates and non-availability of permanent posts.

Direct Recruits were appointed against permanent posts and since their strength was much less than their quota, they were confirmed after 2 years of their joining when they completed the probation period. The recruitment of direct recruits is sporadic i.e. 15 in 1985, 2 in 1987, 22 in 1990, 7 in 1991, 2 in 1993 and 1 in 1994. All of them were confirmed after completion of 2 years of service and the date of confirmation was the date of completion of probation period and not the date of appointment. However, while finalising the seniority in 2011, direct recruits were given the deemed date of confirmation from the date of appointment on the ground that they were appointed against substantive posts.

The case of promotee officers who were appointed within the total sanctioned posts is no different from that of direct recruits. The rules regarding probation period are identical for both the promotees and direct recruits. Both of them were to be confirmed after completion of probation period of two years extendable by one year provided their appointment or promotion was within the total sanctioned strength of the service. The Hon'ble High Court has now

permitted confirmation against both temporary and permanent posts. Accordingly, there can't be any distinction between the date of confirmation of the promotees and direct recruits and both of them would be eligible for confirmation on completion of probation period of 2/3 years from the date of completion of probation period and not the date of appointment.

8. As per the directions of the Hon'ble High Court, valid appointments and promotions would follow 4:1 pattern and if a candidate of required category is not available then a gap is to be kept. Valid appointment means appointment of either direct or a promotee candidate within the overall total sanctioned posts including both permanent and temporary posts.

The date of valid appointment will be the date of appointment if a post was available within the total sanctioned strength. Else it will be the date on which a post becomes available.

Information regarding posts available and filled-up since 01.01.1977 was sought from the office of Director General of Police Punjab who vide his letters No.6851/Con.SA-6(1) dated 09.04.2019 and No. Nil dated 16.03.2020 has furnished the same, the details of which are as under:-

| Year | 01.01.1977 | 01.01.1978 | 01.01.1979 | 01.1.1980 | 01.1.1981 | 01.01.1982 |
|------------------|------------|------------|------------|-----------|-----------|------------|
| Sanctioned Posts | 158 | 159 | 158 | 162 | 160 | 189 |
| Posts filled-up | 169 | 176 | 185 | 165 | 166 | 182 |

| Year | 01.01.1983 | 01.01.1984 | 01.01.1985 | 01.1.1986 | 01.1.1987 | 01.01.1988 |
|------------------|------------|------------|------------|-----------|-----------|------------|
| Sanctioned Posts | 180 | 180 | 198 | 234 | 229 | 247 |
| Posts filled-up | 173 | 163 | 188 | 226 | 201 | 185 |

| Year | 01.01.1989 | 01.01.1990 | 01.01.1991 | 01.1.1992 | 01.1.1993 | 01.01.1994 |
|------------------|------------|------------|------------|-----------|-----------|------------|
| Sanctioned Posts | 250 | 288 | 307 | 311 | 384 | 413 |
| Posts filled-up | 184 | 210 | 195 | 298 | 268 | 325 |

| Year | 03.05.1994 | | | | | |
|------------------|------------|--|--|--|--|--|
| Sanctioned Posts | 429 | | | | | |
| Posts filled-up | 413 | | | | | |

As explained in para 7 above, the officers would be confirmed after completion of 2/3 years of service provided their appointments were within the total sanctioned strength. If the appointment is not within the total sanctioned strength and is in excess, then the date of valid appointment would be the date

on which a post fell vacant and became available within the total sanctioned strength and confirmation would be only after 2/3 years of the date of valid appointment.

9. The Punjab Police Service Rules, 1959 stipulate that officers appointed by direct recruitment or promotion will be on probation of two years extendable by maximum of one year. There are some officers who on account of adverse service record, were neither confirmed after 2 years of probation period nor was their probation period extended by one year. They were allowed to retire without confirmation. As per the Rules, they should have either been reverted or removed after 3 years. Therefore, at this stage, there is no option but to treat them as confirmed after completion of 3 years of service from the date of valid appointment. Accordingly, these officers are deemed confirmed after completion of 3 years of service. The number of officers is 21 and they are –

| Sl. No. | Name of Officer | Date of actual Appointment | Date of valid Appointment | Date of Confirmation |
|---------|-----------------------------------|----------------------------|---------------------------|----------------------|
| 1 | Mehtab Singh A/80 | 10-02-1977 | 01-04-1978 | 01-04-1981 |
| 2 | Jagjit Singh PR/82 | 10-02-1978 | 02-12-1978 | 02-12--1981 |
| 3 | Harjinderpal Singh PAP/171,P/278 | 16-02-1978 | 01-01-1979 | 01-01-1982 |
| 4 | Gurbax Ram PAP/182 | 10-02-1978 | 01-03-1979 | 01-03-1982 |
| 5 | Rameshwar Dutt PAP/62 | 16-02-1978 | 01-09-1979 | 01-09-1982 |
| 6 | Davinder Singh B/30 | 10-11-1978 | 01-11-1979 | 01-11-1982 |
| 7 | Kirpal Singh PAP/216 | 01-03-1980 | 01-07-1981 | 01-07-1984 |
| 8 | Sarup Singh PAP/179 P/240 PAP/189 | 27-02-1980 | 01-09-1981 | 01-09-1984 |
| 9 | Surat Singh CID/25 | 06-10-1980 | 01-01-1982 | 01-01-1985 |
| 10 | Atma Singh PAP/163 | 22-08-1981 | 01-01-1982 | 01-01-1985 |
| 11 | Joga Singh CID/28 | 26-08-1981 | 01-01-1982 | 01-01-1985 |
| 12 | Manmohan Singh, 15/R, P/235 | 30-06-1982 | 01-09-1983 | 01-09-1986 |
| 13 | Gurdev Singh PAP/24 | 05-07-1982 | 01-12-1983 | 01-12-1986 |
| 14 | Malkiat Singh PAP/76 | 11-11-1983 | 01-03-1984 | 01-03-1987 |
| 15 | Narinder Singh PAP/161 P/337 | 01-05-1984 | 01-06-1984 | 01-06-1987 |
| 16 | Dwarka Dass PAP/35 | 25-10-1984 | 01-09-1984 | 01-09-1987 |
| 17 | Rajinder Singh R/10 P/54 | 30-11-1989 | 30-11-1989 | 30-11-1992 |
| 18 | Yash Pal PAP/57 | 21-11-1989 | 21-11-1989 | 21-11-1992 |
| 19 | Baldev Singh PR/10 | 01-12-1989 | 01-12-1989 | 01-12-1992 |
| 20 | Dalbir Singh PAP/189 | 04-12-1989 | 04-12-1989 | 04-12-1992 |
| 21 | Banarsi Dass P/55 | 07-12-1989 | 07-12-1989 | 07-12-1992 |

Sanjiv Arora

10. The application of confirmation criteria explained in para 7 and 8 above for officers appointed/promoted after 03.05.1992 would create some problem for the officers appointed/promoted between 03.05.1992 and 03.05.1994. The officers appointed/promoted between 03.05.1992 and 03.05.1994 would be eligible for confirmation between 03.05.1994 and 03.05.1996 and would, therefore, be placed below the officers appointed/promoted after 04.05.1994 since seniority of officers appointed before 03.05.1994 is linked to the date of confirmation and seniority of officers appointed after 04.05.1994 is linked to the date of appointment i.e. continuous length of service. But that would be contrary to Service Rules and directions of the Hon'ble Court.

The Hon'ble Court has held that if the number of officers appointed before 03.05.1994 is within the overall sanctioned strength, then their seniority would be finalised before 03.05.1994 and frozen. Officers who are in excess of the number of sanctioned posts and who remain to be adjusted, shall spill over, to be governed by the rule of seniority as per the provisions of 1994 Rules. As explained in para 8 above, as on 03.05.1994, the total number of officers was 413 against the total sanctioned posts of 429 and therefore, there would be no spill over.

Accordingly, as per the High Court directions, the officers promoted or appointed upto 03.05.1994 would get seniority of or before 03.05.1994 since all these promotions and appointments were well within the overall sanctioned posts.

This objective can be achieved in two ways.

Firstly, the officers promoted and appointed between 03.05.1992 and 03.05.1994 can be given the due date of confirmation w.e.f. 03.05.1994 by curtailing their probation period of two years so that they get seniority of 03.05.1994. However, this would place the officers promoted/appointed just after 04.05.1994 at a slight disadvantage since the latter would get confirmed only after 1996 i.e. after completion of 2/3 years' probation period whereas the officers promoted and appointed on or before 03.05.1994 would be deemed confirmed w.e.f. 03.05.1994 itself. Confirmation even though delinked from seniority as per 1994 Rules, yet it is useful in many situations.

The second option is to give them seniority w.e.f. 03.05.1994 as per the High Court directions without altering their due date of confirmation. This would be more equitable and fair. The requirement is only to give them seniority of 03.05.1994 and therefore, there is no need to give additional advantage in terms of early confirmation.

Danish Mangho

Accordingly, the officers promoted and appointed between 03.05.1992 and 03.05.1994 shall get seniority w.e.f. 03.05.1994 while their inter-se seniority would be as per the 4:1 ratio and order of appointment as explained in the above paragraphs. Grant of seniority from 03.05.94 to these officers would require relaxation in rule 10 relating to seniority of 1959 Rules which stipulates that seniority be determined with reference to the date of confirmation. Accordingly, the Home Department vide its letter No. 7/190/2013-2H3/2442-2445 dated 03.07.2020 has issued order granting relaxation in rule 10 of 1959 Rules with the approval of competent authority.

11. In view of what has been explained in para 10 above, the number of surplus officers who would remain to be adjusted as on 03.05.1994 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 03.05.1994 is given as under:-

Position as on 03.05.1994

| Post | Sanctioned Posts | Officers in Position |
|-------|------------------|----------------------|
| SP | 55 | 55 |
| DSP | 374 | 358 |
| Total | 429 | 413 |

From the above, it may be seen that as on 03.05.1994, against total number of 429 sanctioned posts of both the promotees and the directly recruited PPS officers, only 413 officers were in position and they were well within the sanctioned strength and therefore, there would be no spill over.

The information as contained in the above table was disputed by some of the officers during the personal hearing granted on 15.02.2020. They stated that the Government in an affidavit filed on 12.01.2016 in CWP No.6801 of 2013 mentioned that the cadre strength of DSP officers was 346 and not 374 as indicated in the tentative seniority list. This is incorrect since the affidavit speaks about 346 cadre and 28 ex-cadre posts and if these posts are included, the total would be 374. More importantly, the requisition for 20 directly recruited candidates was sent to Punjab Public Service Commission (PPSC) on 13.07.1992 and these officers were finally appointed in August 1994. That is these posts were lying vacant from 1992 to 1994. As on 01.01.1994, as per the Gradation List of PPS cadre, 325 officers were in position against the cadre strength of 413.

The letter No.4023-1/CO1/SS-6 dated 27.12.1993 from the Director General of Police Punjab requesting the Government for promotion of Inspectors

Dalish Arang

as DSPs also indicates that number of officers posted was much less than the number of posts available. Para 3 of the letter reads as under:-

"At present, there are as many as 124 vacancies in the rank of DSP all over Punjab. 2 DSPs will retire on 31.12.93. The demand for the recruitment of 20 DSPs against direct quota has already been placed with the PPSC through Home Department. Thus, after excluding the quota posts of 20 DSPs, there will be 106 vacancies in the rank of DSP upto 31.12.1993. However, the vacancies in the rank of DSP will swell further due to promotion of certain DSPs to the rank of Supdt. of Police. This also includes the newly created 35 posts of DSPs against 5 India Reserve Battalions."

Thereafter, from 01.01.1994 to 30.04.1994, 75 Inspectors were promoted to the rank of DSPs. Besides, more than 22 officers were promoted after 1994 with retrospective effect. 20 posts of Direct DSP were also kept vacant till August, 1994.

It is, therefore, amply clear from above and para 8 that as on 03.05.1994, the total number of PPS officers both directly recruited and promoted, was well within the total sanctioned posts and therefore, the officers appointed upto 03.05.1994 would be given seniority as per the Punjab Police Service Rules, 1959 and there would be no spill over.

12. Accordingly, seniority of the officers appointed before 03.05.1994 has been prepared and annexed herewith in **Part-I**. It is based on the following principles:-

- (a) The appointments of Promotee and Direct Recruits can be against both permanent and temporary posts.
- (b) Appointment will be treated as valid only if a post is available within the overall sanctioned strength (both temporary and permanent posts). If the appointment is not within the overall sanctioned strength and is in excess, then the date of valid appointment would be the date on which a post fell vacant and became available within the total sanctioned strength.
- (c) The appointments will follow 4:1 pattern but if no candidate of the required category is available, then a gap would be kept.
- (d) Candidates shall be deemed confirmed after completion of two years of service from the date of valid appointment. If the record was adverse, then the confirmation would be delayed by one year and it

Dahin arandh

would be on completion of three years of service from the date of valid appointment.

- (e) There is no spill over and all the officers appointed before 03.05.1994 will get seniority on or before 03.05.1994.
- (f) The seniority of officers promoted and appointed between 03.05.1992 and 03.05.1994 is to be delinked from the date of confirmation as explained in Para 11 above and they would be given seniority w.e.f. 03.05.1994.
- (g) The State Government has been granting retrospective promotions from time to time and these have been reflected in the seniority list by treating the date of retrospective promotion as the date of seniority.

Seniority of PPS Officers appointed after 04.05.1994:

13. The principle for determination of seniority for officers appointed after 03.05.1994 is simpler. The officers 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 03.05.1994, the quota-wise position was under:-

| Post | Sanctioned Posts | Officers in Position | Sanctioned Posts | | Officers in Position | |
|-------|------------------|----------------------|----------------------|-----------------|----------------------|-----------------|
| | | | Direct Recruits(20%) | Promotees (80%) | Direct Recruits(20%) | Promotees (80%) |
| SP | 55 | 55 | 11 | 44 | 15 | 40 |
| DSP | 374 | 358 | 75 | 299 | 34 | 324 |
| Total | 429 | 413 | 86 | 343 | 49 | 364 |

[Figures include the number of officers promoted after 1994 with retrospective effect i.e., deemed date prior to 1994]

Direct recruits deficit: 86-49 = 37 posts

Promotees in excess: 364-343 = 21 posts

As on 03.05.1994, as submitted in the above table, against 429 posts, 413 officers were working. However, there is a mismatch between the promotee and direct recruits quotas. As on 03.05.1994, against 86 posts earmarked for Direct Recruits, only 49 officers were posted and against 343 posts of promotee quota, 364 officers were posted giving a surplus of 21 posts.

Deshmukh anand

14. 21 officers were appointed through direct recruitment in August and November 1994 and since there were sufficient numbers of vacancies in Direct Recruits quota, they would get seniority from the date of their appointment.

Promotee officers would get seniority from the date of valid appointment i.e. the date on which a post became available within their 80% quota. The Seniority List of Officers appointed after 04.05.1994 is placed at **Part-II**. Officers promoted on the same day have been given seniority on the basis of their seniority in the feeder cadre. Officers promoted subsequently with retrospective effect have been given their seniority point by giving deemed date of promotion.

15. The inter-se seniority of Directly Recruited candidates would be as per their merit in PPSC list irrespective of whether the candidate belongs to general or reserved category since a roster point is not a seniority point. Similarly, the officers promoted on a single day would be given seniority as per their seniority in their feeder cadre i.e. the cadre of Inspectors. Seniority of Direct Recruits appointed through a single order would be as per PPSC merit list irrespective of their date of joining.

16. Objections:

(A) Objections received from the promotee PPS cadre officers:

- (i) **Objections of Kamal Kumar, SP (Retd.), Iqbal Singh, IPS AIG (Retd.), Iqbal Singh SSP(Retd.), Pawan Uppal, IPS DIG(Retd.), Rajinder Kumar Sharda, AIG(Retd.) and Inderjit Singh Radhawa, AIG(Retd.):**

The aforementioned officers have, in their identical representations, stated that recasting of seniority list should have been started from 1959 onwards and also that temporary and permanent posts have not been separately shown. It has further been submitted that direct recruits of 1990 batch have been given confirmation from the date of their joining which is in contravention of Rule 8(b) of Punjab Police Service Rules 1959.

As explained in para 7 above, the direct recruits were initially confirmed on the completion of the probation period from the date of completion of probation period. But while finalising the seniority in 2011, they were confirmed from the back date i.e. date of appointment on the ground that substantive vacancies already existed for the direct Recruits. But their case cannot be different from the case of promotees who were promoted (either against permanent or temporary posts as held in order dated 02.11.2018) within the overall sanctioned strength. Both Direct Recruits and promotees are required to be on probation for a period of 2 years.

Ranjan Chandra

The 1959 Rules permit officiating service to be counted towards probation period.

Accordingly officers who were validly promoted (i.e. within the total sanctioned posts) cannot be treated differently. Both of them would be confirmed on completion of probation period from the date of completion of probation period. The reasons for starting the seniority from 1977 have already been explained in para 5 & 6 above.

(ii) **Narinder Bhargav, Gurnam Singh, MS Sidhu, Rajinder Kumar and Varinder Pal Singh:**

These officers have represented against the date of confirmation of Amrit Brar (17.08.1993), Harcharan Singh Bhullar (30.09.1993) and Charanjit Kumar (08.02.1994) who have been given confirmation from the date of joining.

For the reasons explained in sub-para (i) above, the date of appointment cannot be the date of confirmation.

Amrit Brar, Harcharan Singh Bhullar and Charanjit Kumar have been confirmed from the dates of their joining i.e. 17.08.1993, 30.09.1993 and 08.02.1994.

As explained in this para(i) above, Direct Recruits are also to be confirmed after completion of 2 years' probation period. Accordingly, they will be given confirmation w.e.f. 17.08.1995, 30.09.1995 and 08.02.1996.

(iii) **Kashmir Singh No. TP/20:**

Kashmir Singh, AIG Counter-Intelligence has submitted that his name is not there in the Annexure-A of the seniority list. The record has been checked. He was promoted as D.S.P w.e.f 30.04.1993 (deemed date of promotion) vide order No. 15/91/2006-1H3/2958 dated 19/11/2009 i.e. from the date when his junior inspector Gurdial Singh TP/22 was promoted. In the seniority list of inspectors, he is between Harminder Singh and Gurdial Singh and accordingly in the seniority list of PPS cadre, his name has now been placed between Harminder Singh and Gurdial Singh.

(iv) **Manjit Singh:**

He says that his name has not been shown in the seniority list (Annexure-B). The record has been checked. Manjit Singh was ignored for promotion in the promotion order dated 18.05.2001 on account of adverse record. He was subsequently promoted as DSP w.e.f. 07/07/2001 vide order 7/12/2002-1H3/2889 dated 17.09.2003.

Darshan Arange

In the Seniority list of Inspectors, his name is between Sl. No.204 and 206 and therefore, in the seniority list of DSP, the name of Manjit Singh would be between these 2 officers namely Navjot Singh and Bhulla Singh.

(v) **Ajaib Singh :**

He says that his name is not there in the Seniority list (Annexure-A). The record has been checked. Ajaib Singh has been granted deemed date of promotion w.e.f. 3.10.1988 vide government order dated 15/80/2002-1H3/1533-35 dated 13.05.2003. In the Seniority list of Inspectors, his name has been included between the name of Sohinderpal Singh and Gurdial Singh. Ajaib Singh will appear between these 2 offices in the seniority list Part-I.

(vi) **Jatinder Singh and Jasdeep Singh Saini :**

The two officers were promoted in 2001 and they have represented that officers placed in the dying cadre have wrongly been included in the seniority of DSP's.

Their contention is correct. The officers belonging to the dying cadre namely Satbir Singh, Amandeep Kaur, Manjit Singh, Daljit Singh, Bahadur Singh, Kehar Singh have been included in the tentative seniority list (Annexure-B at Sl. Nos.212, 214, 215, 217, 326 respectively). Their names are accordingly required to be deleted and have, thus, been deleted from the main seniority list. Detailed explanation is given in Para D below.

(B) Objections from Direct Recruits:

(i) **Mohnish Chawla, Surinder Pal Singh Parmar, Jatinder Singh Aulakh, Mukhwinder Singh Chinna, Gurpreet Singh Bhullar, Surjeet Singh, Gurpreet Singh Toor, Harbaj Singh:**

All these directly recruited officers have, in their identical representations, stated that while preparing tentative seniority list, the directions of Hon'ble Supreme Court in the case titled Paramjit Singh Vs Ramrakha have been ignored. The promotee officers cannot be confirmed against temporary posts but only against the permanent posts. The rule of 'Rota-quota' has not been followed. The posts of SPs cannot be included in the cadre of PPS and these posts were never a part of PPS cadre. It was further submitted that while preparing the tentative seniority list, the number of posts have been considered and not the vacancies. The judgment of Hon'ble High Court in the above case is under challenge.

The seniority list is being prepared as per the judgment dated 02.11.2018 of the Hon'ble Punjab & Haryana High Court in CWP

No.6801 of 2013 titled Gurdial Singh & others versus State of Punjab & others. This judgement has discussed all the previous judgements of the Hon'ble High Court and Supreme Court. Therefore, the state government cannot interpret the previous Supreme Court orders differently from what has been interpreted in the judgment of the Hon'ble High Court dated 02.11.2018. Both temporary and permanent posts are to be considered for the purpose of seniority of officers appointed upto 03.05.1994. If a directly recruited/promotee candidate is not available, then a gap is to be kept on such vacancy. PPS cadre comprises of both DSPs and SPs. There are only two services i.e. PPS or the IPS. DSPs onwards are members of either of these 2 services.

At the time of hearing on 15.02.2020, the officers informed that the state government had, in its affidavit dated 12.01.2016, mentioned 346 posts of DSPs and not 374 as mentioned in the tentative seniority list.

The Affidavit has been perused and as per it, as on 01.01.1994, 144 permanent + 202 temporary + 28 ex-cadre posts = 374 total number of posts of DSPs have been shown. Accordingly, there does not seem to be an error in the figures mentioned in the seniority list.

(ii) **Gurpreet Singh, Harpreet Singh, Sushil Kumar and Sarbjit Singh:**

In the tentative seniority list (Annexure-B), inter-se seniority of these reserved category candidates is in the following order:-

- (a) Sarbjit Singh
- (b) Harpreet Singh
- (c) Gurpreet Singh
- (d) Sushil Kumar

They are Direct Recruits of 1994 batch appointed against posts reserved for SC candidates. Harpreet Singh was initially appointed as DSP (Jails) but on vacation of seat of DSP by one Bakhtawar Singh, he was adjusted as DSP in police vide order dated 09.03.1998 with seniority of 1994.

During hearing, the officers agreed that they would be satisfied if their inter-se seniority was fixed as per their merit in PPSC merit list.

Till 22.10.2000, the seniority of directly recruited scheduled caste (SC) candidates was being determined w.r.t. roster point. However, the Department of Personnel, Government of Punjab, in order to implement the judgement of Hon'ble Supreme Court in Ajit

Singh Janjua case (I.A. No.1-3 in C.A.Nos.3792-3794), vide its circular letter No. 8/3/2K-3001/13052 dated the 23rd October 2000, wrote to PPSC that the merit list of directly recruited SC candidates be supplied to them so that they can redetermine their seniority on the basis of merit list with a copy to all the Departments. Accordingly, the seniority of directly recruited SC candidates was recast and redetermined as per the PPSC merit list. Accordingly, the seniority of these 4 candidates has to be as per the PPSC merit list.

As per the PPSC merit list, the inter-se merit of these 4 candidates was as under:-

- (a) Gurpreet Singh
- (b) Sarbjit Singh
- (c) Sushil Kumar
- (d) Harpreet Singh

The inter-se seniority of the officers would accordingly be fixed as above as per PPSC merit list.

(iii) **Sukhminder Singh Mann and Jasdev Singh Sidhu:**

The contention of these two officers is that the 1959 Punjab Police Service Rules linking seniority with confirmation may be continued to be in operation till 18.08.2010 when these Rules were amended and for the first time, it was provided that the seniority of members of service shall be determined as per PCS (General & Common Conditions of Service) Rules, 1994. That is, they assert that till 2010, the seniority should be continued to be determined with reference to the date of confirmation.

Their argument is not valid. Rule 20 of 1994 Rules categorically stipulate that the provisions of these rules would have over-riding effect notwithstanding anything contrary contained in any other service rules. Moreover, the judgement dated 02.11.2018 itself makes it amply clear that the seniority of officers appointed after 04.05.1994 is to be determined on the basis of continuous length of service.

(C) **Officers of Technical & Support Services Cadre (Wireless Wing):**

DSPs of Wireless Wing are appointed by promotion and direct recruitment in the ratio of 80:20 as in the case of DSPs general cadre. Their names were not included in the seniority list of 2011 or 2013 as a result of which they made a representation to the State Government. The State Government vide its detailed order No. 4/27/2017-2H3/5201 dated 01.11.2017 declared them as a part of

PPS General Cadre and directed that their names be included in the seniority of general PPS cadre circulated on 19.12.2011 and 29.01.2013.

Naveen Saini & others have challenged this order in CWP No.3142 of 2018 before the Hon'ble Punjab & Haryana High Court and the Hon'ble High Court has, vide order dated 12.02.2018, held as under:-

"Further operation and effect of the order dated 01.11.2017 of the State Government shall remain stayed till further orders."

In view of orders of the Hon'ble High Court, as of now, the names of these officers cannot be included in the seniority list of PPS general cadre. It can be done only when the case is finally decided in their favour.

(D)

Dying Cadre:

The seniority list circulated in 2013 includes officers appointed as DSPs upto 31.07.2004. This list includes the name of 06 DSPs namely Satbir Singh, Amandeep Kaur, Manjit Singh, Daljit Singh, Bahadur Singh, Kehar Singh who were appointed as constables against the Sports Quota in the year 1990. Punjab Police Rules (PPR) provide for 10% out-of-turn promotion to posts of Head Constables (HCs), Assistant Sub-Inspectors (ASIs), Sub-Inspectors (SIs) and Inspectors. These constables were given promotions as HCs, ASIs, SIs and Inspectors in excess of 10% prescribed quota and were thereafter promoted as DSPs from 2001 to 2004. Their names were included in the seniority list of 2013 as well as in the tentative seniority list. They are from the District Police Cadre.

The accelerated promotion of these 6 officers and other sportspersons was challenged before Hon'ble Punjab and Haryana High Court in CWP No 13788 of 1997 titled SI Swaran Singh versus State of Punjab. The Hon'ble High Court, vide its order dated 21.04.1998, held promotions in excess of 10% out of turn quota as illegal. The orders of Hon'ble High Court were circulated vide Memo No.22136-245/E-6 dated 31.08.1998 by the office of Director General of Police, Punjab. As a result, non-sportspersons who were promoted in excess of 10% out-of-turn promotion quota were

reverted both in PAP and District Police cadre. Similarly, sportspersons of PAP were also reverted but were subsequently rehabilitated and their promotions were protected.

However, the outstanding sportspersons of district police cadre promoted in excess of 10% out-of-turn promotion quota were not reverted even though they were liable to be reverted as per the Hon'ble High Court Order. The Council of Ministers subsequently, in order to protect the interest of these sportspersons, in its meeting held on 23.02.2010, authorised the Hon'ble CM to create requisite number of posts in the Police Department. The State Government accordingly, vide its order dated 18.05.2011, notified the creation of 207 posts including 8 posts of DSPs in the District Cadre of Punjab Police. This order mentions that these posts are being created to allow the sports persons who were promoted in excess of out of turn 10% promotion quota to enable them to enjoy benefits of their service. These posts were created as personal measure for these officers in the Dying Cadre and it was stipulated that on promotion to higher post, lower post in the Dying Cadre would stand abolished and the post in higher cadre would stand created. Their promotions were linked to the promotion of officers appointed at the relevant dates in the general cadre and the officers in the Dying Cadre would be eligible for promotion as and when the officer appointed on same date in the general cadre is promoted. The State Government subsequently vide its order dated 14.06.2011 clarified that this arrangement would continue upto the post of DSP only.

As mentioned in para 16(A)(vi), Jatinder Singh and Jasdeep Singh Saini have represented against inclusion of names of these officers in the seniority list of 2013. As explained, these officers could not have survived in the service on account of order dated 21.04.1998 of Hon'ble High Court and it is only because of creation of post in Dying Cadre that these officers are in service. Being in the Dying Cadre, they cannot be a part of general cadre of PPS service and cannot be included in the seniority list of general PPS cadre.

Daan Singh

15. Accordingly the seniority of the general PPS cadre is circulated in two parts- Part 1 pertains to the officers appointed upto 03.05.1994 and Part 2 pertains to the officers appointed after 04.05.1994 and upto 31.07.2004.

The seniority list of Support & Services Cadre (Wireless wing) is separately enclosed herewith.

Dated: Chandigarh, the
July 03, 2020.

Satish Chandra
(Satish Chandra)
Special Chief Secretary
Home Affairs and Justice

Endst. No.7/190/2013-2H3/2446-2449

Dated: July 03, 2020.

A copy is forwarded to:-

- (i) The Director General of Police, Punjab,
- (ii) All the Inspector Generals of Police in the State,
- (iii) All the Commissioners of Police in the State,
- (iv) All the Senior Superintendents of Police in the State, for expeditiously taking further necessary action in the matter.

Satish Chandra
Special Chief Secretary
Home Affairs and Justice

Seniority of DSP's (Wireless)

| Sr. No. | Name of the Officer | Date of Birth | Date of promotion as DSP become effective from | Date of joining | Date of seniority | Date of retirement |
|---------|---------------------------------|---------------|--|-----------------|-------------------|--------------------|
| 1. | Sukhdev Singh, 111/W | 26.01.1940 | 26.10.1979 | 26.10.1979 | 26.10.1979 | 31.01.1998 |
| 2. | Ashok Kapoor, 150/W | 03.08.1937 | 27.03.1985 | 27.03.1985 | 27.03.1985 | 31.08.1995 |
| 3. | Umesh Chander, 49/W | 03.03.1943 | 22.05.1989 | 22.05.1989 | 22.05.1989 | 31.03.2001 |
| 4. | Ranbir Kochhar, 69/W | 31.01.1942 | 27.05.1989 | 27.05.1989 | 27.05.1989 | 31.01.2000 |
| 5. | Kaka Singh, 319/W | 05.03.1942 | 05.07.1989 | 05.07.1989 | 05.07.1989 | 31.03.2000 |
| 6. | Lacchman Das, 131/W | 01.07.1943 | 29.05.1991 | 29.05.1991 | 29.05.1991 | 30.06.2001 |
| 7. | Gurdial Singh, 52/W | 15.04.1940 | 03.05.1991 | 03.05.1991 | 03.05.1991 | 30.05.1998 |
| 8. | Gian Parkash, 55/W | 13.06.1940 | 30.05.1991 | 30.05.1991 | 30.05.1991 | 30.06.1998 |
| 9. | Malwinder Singh Sidhu, DSP (DR) | 13.03.1966 | 09.05.1992 | 09.05.1992 | 09.05.1992 | 31.03.2024 |
| 10. | Sant Ram, 197/W | 30.04.1941 | 18.03.1993 | 18.03.1993 | 18.03.1993 | 30.04.1999 |
| 11. | Ramesh Kumar, 199/W | 02.08.1949 | 18.03.1993 | 18.03.1993 | 18.03.1993 | 31.08.2007 |
| 12. | Sukhdev Singh, 68/W | 15.11.1960 | 08.04.1993 | 08.04.1993 | 08.04.1993 | 30.11.2018 |
| 13. | Mandhir Singh, DSP (DR) | 02.12.1969 | 29.07.1993 | 29.07.1993 | 29.07.1993 | 02.12.2027 |
| 14. | Vipan Chaudhary, 67/W | 17.08.1965 | 05.04.1995 | 05.04.1995 | 05.04.1995 | 31.08.2023 |
| 15. | Ajit Singh, 233/W | 04.04.1949 | 25.05.1998 | 25.05.1998 | 25.05.1998 | 30.04.2007 |
| 16. | Labh Singh, 389/W | 01.12.1994 | 29.05.1998 | 29.05.1998 | 29.05.1998 | 30.11.2002 |
| 17. | Harminder Singh, 280/W | 30.04.1953 | 30.09.2002 | 30.09.2002 | 30.09.2002 | 30.04.2011 |
| 18. | Urmal Kumar, 108/W | 04.06.1945 | 30.09.2002 | 30.09.2002 | 30.09.2002 | 30.06.2003 |
| 19. | Ravinder Singh, 446/W | 15.01.1953 | 30.09.2002 | 30.09.2002 | 30.09.2002 | 31.01.2011 |
| 20. | Jeet Singh, 199/W | 26.06.1951 | 30.09.2002 | 30.09.2002 | 30.09.2002 | 30.06.2009 |

Defin Change