A STATE OF HARYANA AND ORS.

*v.*

BALWANT SINGH AND ORS.

APRIL 22, 1996

B [K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Service Law :*

*Seniority—Candidates selected by Service Commission and placed in merit list—Could not be appointed due to pendency of writ petition—Not impleading themselves in the writ proceedings—Held; Seniority to be reckoned from date on which appointed—Not from the date of selection.*

C

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7787 of 1996.

D

From the Judgment and Order dated 14.7.95 of the Punjab & Haryana High Court in C.W.P. No. 3200 of 1995.

Ms. Shruti Pandey for Ms. Indu Malhotra for the Appellants.

E J.P. Dhanda and K.K. Aggarwal for the Respondents.

The following Order of the Court was delivered :

Delay condoned.

F Leave granted

Heard learned counsel on both sides.

This appeal by special leave arises from the order of the Division Bench of the High Court of Punjab & Haryana made on July 14, 1995 in writ petition No. 3200/95. The admitted position is that on August 8, 1971 G the Haryana Subordinate Service Selection Board advertised for selection of the candidates for Family Welfare Extension Educators and Family Planning Welfare Educators in the Health Department of the State of Haryana. On June 7, 1972, a list of 45 candidates was prepared on the basis of merit secured by them in the selection. It would appear *ad hoc* appoin- H tees approached the High Court and filed W.P. No. 2122/72 and obtained

*status quo* on June 13, 1972. The writ petition came to be disposed of on November 20, 1981. Thereafter, the letters of appointment were given to the selected candidates and the candidates came to be appointed and joined duties on various dates between September 30, 1985 and December 23, 1986. The gradation of seniority was done in 1994. The seniority of respondents has been determined with effect from their dates of actual joining in 1985-86. As said earlier, the High Court allowed the writ petition and declared them to be seniors on par with those who were selected and whom letters of appointment were offered in 1972.

The question, therefore, is : whether the respondents are entitled to seniority from 7th June, 1972 as per the gradation list prepared by the selection Board ? Normally, the seniority of the candidates who are selected by the direct recruitment would be determined with reference to the merit list prepared by the Selection Board. But, unfortunately, in this case, they could not join the service due to the pendency of the writ petition. The respondents themselves have to be blamed for the laches since they did not take any action, namely impleading themselves in the pending writ petition nor filed any independent writ petition claiming for their appointment. After the dismissal of the writ petition, letters of appointment came to be issued in 1985 and they joined the service. It is settled law that the seniority of the candidates has to be reckoned from the date on which they joined the service and started discharging the duties of the post to which they came to be appointed. In that view, since the respondents joined the service in 1985-86, seniority cannot be given with retrospective effect from the date of the selection to the candidates appointed from the list of merit prepared by the Selection Board.

The appeal is accordingly allowed. No costs.

G.N. Appeal allowed.