

seniority with rota quota

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Vide the aforesaid Circular, objections were invited in respect of the tentative **seniority** list. On consideration of the objections, a final **seniority** list dated 3.4.1984 (Annexure P-3) was circulated. This **seniority** list clearly establishes that the **seniority** has been fixed by applying **quota/rota** rule in accordance with Rules 6 and 12 of the Punjab Service of Engineers Class-II PWD B&R; Branch Rules, 1965 (hereinafter referred to as "the 1965 Rules"). As a matter of fact, the **seniority** has been fixed on the basis of roster points irrespective of the date of joining. Another tentative **seniority** list came to be issued in the year 1989 and the names of those persons who were appointed after the issuance of the first **seniority** list were also included but in the same manner. It is alleged that some persons with vested interests attempted to put pressure to fix the **seniority** according to the date of joining. Apprehending that the **seniority** list may be changed, the petitioners made a representation dated 21.2.1989 (Annexure P-4) requesting for maintaining the **seniority**, as per final **seniority** list dated 3.4.1984 (Annexure P-3). The authorities, however, on consideration of various representations for and against the **rota/quota** system, published an upto date tentative **seniority** list as it stood on 3.4.89 vide letter dated 19.5.89 (Annexure P-5).

"After hearing the learned counsel for the petitioners we direct the respondents to decide the representation dated 8.8.1990 Annexure P-6 to the writ petition, by passing a speaking order in accordance with law within two months. The petition stands disposed of accordingly."

Respondent no.2 considered the representation of the petitioner in the light of the aforesaid directions and rejected the same vide order dated 4.12.1990 (Annexure P-8) and fixed the **seniority** on the basis of date of joining, ignoring the **quota/rota**. **Seniority** lists (Annexures P-3 and P-5) earlier issued in accordance with the **quota-rota** have been altered. It is further alleged by the petitioners that even though the **seniority** vide order (Annexure P-8) has been fixed on the basis of date of joining, however, the rule of length of service has also not been adhered to. It is stated that appointees of the year 1979 in the cadre of Assistant Engineers (Civil) have been shown senior to appointees of the years, 1976, 1977 and 1978. Similarly, appointees of 1981 have been shown senior to the appointees of 1978, 1979 and 1980. It is specifically alleged that one Engineer K.B.Passi who is an appointee of 22.11.1976 has been brought down because of extension of his probation period under proviso to Rule 12 of the 1965 Rules whereas Maninder Singh whose probation period was also extended and whose roster point was allotted to petitioner no.1, as is clear from Sr.No.18 and 25 of Annexure P-5, has been placed at Sr.No.18 and petitioner no.1 has been pushed down at Sr.No.40.

In sum and substance, the contention of the petitioners is that **seniority** is to be fixed on the basis of **quota/rota** as envisaged under Rules 6 and 12 of the 1965 Rules. From the perusal of the impugned order (Annexure P-8), it appears that the authorities have adopted length of service as the mode of fixation of **seniority** on the plea that the **rota/quota** system has broken down.



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The respondents have defended and justified the impugned order (Annexure P-8) firstly on the ground that the persons who are senior to the petitioners and are likely to be affected, are not parties before this Court. Secondly, the **seniority** has been fixed after affording an opportunity of being to the petitioners and on the basis of the judgment of Hon'ble Supreme Court in the case of [The Direct Recruit Class-II Engineering Officers' Association and others v. State of Maharashtra and others](#), AIR 1990 Supreme Court 1607. It is been further argued that since **quota/rota** system has already broken down and no person under the roster point was eligible for promotion to the posts, hence, the appointments were made by direct recruitment on regular basis between 1978 to 1980 and thus **quota/rota** system is not applicable. The respondents have placed reliance upon the judgment of the Hon'ble Supreme Court in the case of [The Direct Recruit Class-II Engineering Officers' Association \(supra\)](#). In the aforesaid judgment, Hon'ble Supreme Court made following observations:-

"58. We have also referred to the decisions rendered by this Court. This Court said **rota** and **quota** must necessarily be reflected in the **seniority** list and any **seniority** list prepared in violation of **rota** and **quota** is bound to be negated. The action of the respondents in determining the **seniority** is clearly in total disregard of **rota-quota** prescribed in Rule 18 of the 1976 Rules. The action is therefore, clearly contrary to the law laid down by this Court. Thus we hold: