

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP No.11032 of 2013

Sutantar Kumar Airi

..... Petitioner

Versus

State of Punjab and another

..... Respondents

2. CWP No.8964 of 2013

Sutantar Kumar Airi and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

Date of Decision: 15.01.2015

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Krishan Singh Dadwal, Advocate,
for the petitioner(s).

Mr. Rajiv Prashad, Addl. AG, Punjab.

Mr. Gurminder Singh, Sr. Advocate,
with Mr. Yagyadeep, Advocate,
for respondent No.3.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

This order shall dispose of CWP No.11032 of 2013 titled
Sutantar Kumar Airi vs. State of Punjab and another & CWP No.8964 of
2013 titled *Sutantar Kumar Airi and others vs. State of Punjab and others*.

Mr. Yagyadeep makes an oral request that his client Mr. Sarabjit
Singh Khandari, s/o Shri Garib Singh may be impleaded as a party to this
petition as he is likely to be affected by orders which may be passed. He

submits that his client is already a party in the connected writ petition filed by Mr. Dadwal.

The oral request is accepted.

Mr. Sarabjit Singh Khandari, s/o Shri Garib Singh, General Manager Marketing Punseed, Sector 22-A, Chandigarh is ordered to be impleaded as added respondent No.3.

The Registry to make an addition in the memo of parties.

Having heard Mr. K.S. Dadwal, learned counsel for the petitioner, Mr. Rajiv Prashad, Addl. AG, Punjab and Mr. Gurminder Singh, learned Senior counsel with Mr. Yagyadeep, learned counsel at length and considering the fact that the cadre of Joint Directors, Agriculture, Punjab consists of six posts then there may not be anything illegal in the promotion of respondent No.3 as Joint Director, Agriculture. Respondent No.3 belongs to the reserved category (SC) and has been promoted as Joint Director on the replacement theory by application of rules of reservation.

Mr. Dadwal submits that petitioners in the connected writ petition are due to retire soon and may not be available to contest the promotional post. Therefore, the only one left in the fray of contest in the present petition is petitioner No.1 in both the cases and his rights to promotion are nearing maturity on account of the impending retirement of an incumbent in the cadre of Joint Directors from the general category.

In view of these emerging circumstances, these petitions are disposed of with liberty to petitioner No.1 that consequent upon his promotion, he may make a representation to the State Government to claim his rights as a general category candidate *vis-à-vis* respondent No.3 with

respect to principles of deemed experience, the rule of "catch up" and consequential restoration of seniority in terms of the law laid down in a large number of judgments and especially in **Ajit Singh Januja-I and others vs. State of Punjab**, [1996] 2 SCC 715, **Ajit Singh Januja-II and others vs. State of Punjab and others**, AIR 1999 SC 3471, **R.K. Sabharwal vs. State of Punjab**, [1995] 2 SCC 745, **Union of India vs. Virpal Singh Chauhan**, [1995] 6 SCC 684 & **M. Nagaraj and others vs. Union of India and others**, (2006) 8 SCC 212 and the host of other decisions on the point of reservation in promotion and accelerated seniority on reserve roster points and post-based rosters in terms of the enabling reservation policies prevailing in State of Punjab and the goal of balancing out the competing interests of the general and reserved category candidates in an equitable manner.

With these directions and the liberty, both the petitions stand disposed of.

Order dasti.

(RAJIV NARAIN RAINA)
JUDGE

15.01.2015
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