

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17814 of 2014

Date of Decision: 08.09.2015

Resham Singh and another

... Petitioners

Versus

State of Punjab and others

... Respondents

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

Present: Mr. J.S. Thind, Advocate,
for the petitioners.

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

RAJIV NARAIN RAINA, J.

The question raised in this petition is whether monetary benefits are available on parity of treatment with similarly situated persons who had been granted those benefits on earning promotions to higher posts long ago in the year 1994, then they deserve to be granted to the petitioner on principle of equality and discrimination. Those benefits were granted to similarly situated persons on promotion prior to the decisions rendered 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 cases and such accelerated promotions were on reserve roster points without resort to litigation.

Rights based on benefits granted to similarly situated persons and rights accruing therefrom with reference to court orders have been explained by the Supreme Court recently in **State of U.P. and others vs.**

Arvind Kumar Srivastava and others, (2015) 1 SCC 347 where the parameters of interference have been thrashed out and the principles culled out in para.23 of the reported text of the judgment.

Merely because the petitioners approached this court for the first time after retirement in CWP No.22215 of 2012 wherein a direction was issued by this Court on November 07, 2012 to the respondents to consider representations dated June 08, 2012 and June 10, 2012 filed by the present petitioners would not clothe them per se with rights to monetary benefits on the principle that they are identically situated with the beneficiaries of 1994 but were given the same benefits on promotions granted subsequently w.e.f. April 22, 2005 and not from retrospective date i.e. February 07, 1994 when Harnek Singh and Natha Singh were promoted who also were members of the Scheduled Caste category and earned roster point promotions to the higher posts against then available reserved vacancies.

The order impugned in this petition has been passed on February 19, 2013 and was endorsed on March 04, 2013 to the petitioners and this writ petition has been filed on August 13, 2014 when the view of the Supreme Court in *Arvind Kumar Srivastava* (supra) was not available.

In the circumstances, instead of this court taking a final decision on a matter which falls in primary review of the Director Agriculture, Punjab then it would serve the ends of justice that this case should be remitted to the Director Agriculture, Punjab to review and re-examine its own order and consider the claims of the petitioners in the light of the law declared in *Arvind Kumar Srivastava* while at the same time

examining the issue of delay and laches in raising claims keeping in mind the ruling of the Supreme Court in **P.S. Sadasivaswamy vs The State Of Tamil Nadu**, AIR 1974 SC 2271 and without being trammelled by anything said in the impugned order dated February 19, 2013 especially since it has been urged in this petition that petitioner-1 is a member of the reserved category like Harnek Singh and Natha Singh and petitioner-2 is otherwise senior to the aforesaid two employees. This issue also needs to be examined as it is not dealt with in the order dated February 19, 2013 impugned in this case but the consideration will have to be in the framework above outlined. In order to achieve the ends of justice and to pave the way to a fresh approach to the grievance the impugned order is set aside without expressing any opinion on its correctness or otherwise.

The Director Agriculture, Punjab would pass a speaking order within reasonable time and communicate it to the petitioners after hearing them on facts and law.

The petition stands disposed of with the above directions.

(RAJIV NARAIN RAINA)
JUDGE

08.09.2015
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