

**HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.18331-CAT of 2014 (O&M)

Date of Decision: 29.01.2015

Mrs Sukhwinder Kaur & Ors.

... Petitioners

VS.

CAT Chandigarh & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE RAJ MOHAN SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Present: Mr. RD Bawa, Advocate for the petitioners

Mr. Rajesh Garg, Senior Advocate with

Ms. Nimrata Shergill, Advocate for PGIMER

SURYA KANT, J. (Oral)

(1) The order dated 23.09.2014 passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal') in the matter of *inter-se*-seniority amongst the Reserved Category employees (the petitioners) and the General Category employees (the private respondents), is under challenge in the instant writ petition. The Tribunal has viewed that the petitioners were granted accelerated seniority contrary to the *dictum* in *M.Nagaraj's*¹ case which was followed by the Tribunal in the identical circumstances in *OA No.404/CH/2012 titled as Kamlesh Florence & Ors. vs. UOI & Ors.* decided on 15.11.2012.

¹ *M.Nagaraj & Ors. vs. Union of India*, (2006) 8 SCC 212

(2) The PGIMER – respondent No.2 has put in appearance and its learned senior counsel states at the bar that out of 22 posts of Deputy Nursing Superintendent, 11 posts are lying vacant against which the petitioners as well as the private respondents, namely, the Assistant Nursing Superintendents can well be promoted. It is further pointed out that respondent No.4 to 6 would be attaining eligibility on 19.02.2015. In the light of the above-noticed peculiar facts, learned counsel for the petitioners and the PGIMER are right in contending that this Court need not to dwell upon the legal issue, namely, whether or not the pre-condition laid down in **M.Nagaraj** were followed before extending the benefit of reservation to the petitioners? They submit that such an issue can be effectively gone into by this Court in other cases where the Tribunal has passed identical orders and the matter is under consideration before this Court. We find merit in the above-noticed submission. Consequently, the instant writ petition is disposed of in the following terms:-

- i. Let respondents No.4 to 6 as well as the petitioners be considered for promotion to the post of Deputy Nursing Superintendents in February, 2015 as soon as the former attain eligibility and subject to their suitability and other eligibility conditions, all of them can be promoted by way of common order.

- ii. Owing to their left out service, the official respondents would give effect to the order passed by the Tribunal for the purpose of *inter-se* seniority.
 - iii. However, if this Court, in other cases which are pending consideration, takes a view in favour of reserved category candidates, the petitioners shall indeed be at liberty to approach the competent authority to seek appropriate relief in accordance with such judgement.
- (3) The writ petition stands disposed of in above terms.

(Surya Kant)
Judge

29.01.2015
vishal shonkar

(Raj Mohan Singh)
Judge