

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision : March 13, 2015

1. CWP No.1894 of 2014 (O&M)
Madan Lal vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
2. CWP No.2197 of 2014
Ramesh Kumar Katyal vs Uttari Hry Bijli Vitran Nigam Ltd & Ors
3. CWP No.2215 of 2014
GK Bajaj vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
4. CWP No. 2375 of 2014
Rajinder Prasad vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
5. CWP No.3155 of 2014
Ram Dhan vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
6. CWP No. 3162 of 2014
Rattan Singh vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
7. CWP No. 3168 of 2014
Raj Kumar Rathi vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
8. CWP No. 3544 of 2014
Suraj Bhan vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
9. CWP No. 3549 of 2014
Krishan Kumar Khurana vs Uttari Hry Bijli Vitran Nigam Ltd & Ors
10. CWP No. 3555 of 2014
Mahabir Singh vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
11. CWP No. 3569 of 2014
Balbir Singh Saini vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors

12. CWP No. 3583 of 2014
Jai Pal Singh Mor vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
13. CWP No.3982 of 2014
Raj Kumar vs Dakshin Haryana Bijli Vitran Nigam Ltd & Ors
14. CWP No. 3993 of 2014
Ashok Kumar Parmar vs Uttari Hry Bijli Vitran Nigam Ltd & Ors
15. CWP No. 4006 of 2014
Kapoor Singh vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
16. CWP No. 4247 of 2014
Subash Chander vs Haryana Power Generation Corpn Ltd. & Ors
17. CWP No. 4404 of 2014
Tara Singh Malik vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
18. CWP No. 4522 of 2014
Rai Singh vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors.
19. CWP No. 4609 of 2014
Ram Kumar vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
20. CWP No. 4968 of 2014
Gulshan Kumar vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
21. CWP No. 4979 of 2014
Amar Nath vs Haryana Power General Corpn Ltd. & Ors.
22. CWP No. 5001 of 2014
GK Taneja vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
23. CWP No. 5279 of 2014
Dharam Pal Malik vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
24. CWP No. 5996 of 2014

- SM Gupta vs Haryana Power Generation Corpn Ltd. & Ors.
25. CWP No. 6431 of 2014
- Jai Singh Rana vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors
26. CWP No. 6632 of 2014
- Satpal Sandhu vs Haryana Power Generation Corpn. Ltd. & Ors
27. CWP No. 7593 of 2014
- Yogesh Kumar Mishra vs Uttar Hry Bijli Vitran Nigam Ltd. & Ors
28. CWP No.7975 of 2014
- Satbir Singh Ahlawat vs Dakshin Hry Bijli Vitran Nigam Ltd & Ors
29. CWP No. 7984 of 2014
- Ashok Kumar Dhawan vs Uttari Hry Bijli Vitran Nigam Ltd & Ors
30. CWP No.8532 of 2014
- Satya Pal Nagpal vs Haryana Vidyut Parsaran Nigam Ltd. & Ors
31. CWP No. 8728 of 2014
- Sumer Singh Saini vs Haryana Power Generation Corpn Ltd & Anr
32. CWP No. 10378 of 2014
- Jai Krishan Kalyan vs Haryana Power Generation Corpn Ltd. & Ors
33. CWP No. 10536 of 2014
- Achharpal vs Haryana Power Generation Corpn Ltd. & Ors
34. CWP No. 10545 of 2014
- Om Pal vs Haryana Power Generation Corpn Ltd & Ors
35. CWP No. 10595 of 2014
- Kirpal Singh vs Uttari Hry Bijli Vitran Nigam Ltd & Anr
36. CWP No. 10616 of 2014
- Luxmi Narain Goel vs Haryana Power Generation Corpn Ltd. & Ors

37. CWP No. 3115 of 2015

Satpal Arora vs Uttari Haryana Bijli Vitran Nigam Ltd & Ors

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. J.K Goel, Advocate
for the petitioners.

Mr. Pardeep Singh Poonia, Advocate and
Ms. Shubhra Singh, Advocate
for the respondents in CWP Nos.1894, 2197, 2215, 2375,
3155, 3162, 3544, 3555, 3583, 3982, 4006, 4522 4968, 4979,
5001, 5279, 6431, 6632, 7593, 7975, 7984, 8532, 10378,
10536, 10545, 10595 of 2014.

Mr. Mohnish Sharma, Advocate
for the respondents in CWP Nos. 3569 and 10616 of 2014.

Mr. Sandeep Vermani, Advocate
for the respondents in CWP Nos.4404 & 8728 of 2014.

Mr. Aman Chaudhary, Advocate
for the respondents in CWP No.3555 of 2014.

Mr. Prabhjeet Singh Sullar, Advocate
for respondents No.1 and 2 in CWP No.4247 of 2014.

Mr. Gaurav Mohunta, Advocate
for the respondents in CWP Nos.3549, 3594 & 5996 of 2014.

Mr. GS Hooda, Advocate
for the respondents in CWP No.4609 of 2014.

1. **Whether Reporters of Local Newspapers 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 ?**

Ajay Tewari, J (Oral)

This order shall dispose of CWP Nos. 1894, 2197, 2215, 2375,
3155, 3162, 3168, 3544, 3549, 3555, 3569, 3583, 3982, 3993, 4006, 4247,
4404, 4522, 4609, 4968, 4979, 5001, 5279, 5996, 6431, 6632, 7593, 7975,

7984, 8532, 8728, 10378, 10536, 10545, 10595, 10616 of 2014, and CWP No.3115 of 2015, as the essential issue is the same in all these writ petitions.

Written statements filed in CWP Nos.3549 and 5996 of 2014 are taken on record.

The petitioners seek the same benefit which was granted to their reserved category juniors. Some of the petitioners had filed a writ petition bearing CWP No.12204 of 2011 for the same cause of action which was disposed of by order dated 19.8.2013 with a direction to the respondents to decide their claim by passing a speaking order. Accordingly, the respondents have passed the order dated 15.10.2013 (Annexure P-5), which has been impugned in these writ petitions.

Before proceeding further, it would be appropriate to re-produce the table which has been given by the petitioner-Madan Lal in CWP No.1894 of 2014, which is to the following effect :-

<i>S.No</i>	<i>Name of Petitioner with Deg. & seniority no.</i>	<i>Date of Joining</i>	<i>Name of junior official in reserve category with seniority no.</i>	<i>Date of joining</i>
	Madan Lal Narang (JDM) Appointed as JDM	21.11.68	O.P Ranga (SC) (JDM) Appointed as JDM	15.12.1969
	Promoted as D/Man	19.05.72	Promoted as D/Man	03.05.1972
	Promoted as HDM	03.09.85	Promoted as HDM	19.05.1977
	Promoted as CHD	---	Promoted as CHD	15.10.1982
			Promoted as CDM	04.08.1987

Counsel for the petitioners has argued that the petitioners have

to be promoted as CHD and CDM because their juniors were so promoted.

The case of the respondents, on the other hand, is that if the petitioners had caught up with their juniors as Head Draftsmen, they would have been entitled to all these benefits but as per the table by the time the petitioners were promoted as Head Draftsmen on 3.9.1985, their juniors had already been promoted as Chief Head Draftsmen on 15.10.1982 and, therefore, the petitioners could not catch up with their reserved category juniors.

Counsel for the petitioners has relied upon various judgments which, as per him, even go beyond the principle laid down by the Hon'ble Supreme Court in Ajit Singh Janjua and others vs State of Punjab and others, JT 1999 (7) SC 153. Very simply put, in Ajit Singh Janjua's case (supra), their Lordships had held that a reserved category candidate can be promoted as per roster to the next higher post but if before he gets a further promotion, his erstwhile general category senior is also promoted to the next higher post, that senior would regain his original seniority by 'catching up'. That benefit was also declared by their Lordships to be prospective. Counsel for the petitioners has argued that the subsequent judgments of this Court in Charan Dass v. State of Haryana, CWP No.5956 of 2008, decided on 18.11.2008 (Annexure P-8) and V.B Nanda and others v. UHBNL and others, CWP No.20351 of 2008, decided on 14.07.2010 (Annexure P-9) have gone further and laid down that even if such general category candidate is not promoted to the next higher post before the reserved category candidate gets further promotion, he would still be entitled to catch up.

After having taken through all the judgments and also after having gone through the judgment of this Court in Rajbir Singh vs State of Haryana and others, CWP No.25512 of 2012, decided on 14.11.2014, I have not found even a single fact situation where any Court has permitted a person to catch up with a junior who climbed up two steps ahead of him as in the present case. However, counsel for the petitioner has pointed out that in V.B Nanda and others' case (supra), a reserved category junior had climbed up two steps ahead of the petitioners therein, but the respondents had given him the benefit. In that case, the petitioners therein had only claimed that they should be granted pay from the date/s of their promotion and this Court had allowed that plea. However, there was no finding that the said petitioners were entitled to catch up on their erstwhile juniors. Counsel for the respondents have accepted that this was done but state that this was a mistake and, therefore, this mistake cannot give a right to the petitioners. Counsel for the petitioners has argued that having granted the relief to the petitioners in V.B Nanda and others' case (supra), the respondent-State cannot take a different view for the present petitioners as it would amount to discrimination.

In my opinion, this argument is clearly fallacious. It has been repeatedly held that a claim for discrimination cannot be raised against an illegal benefit. As mentioned above, once a general category candidate is not able to catch up with the reserved category candidate on the next higher post, the principle of catching up would have no applicability.

Counsel for the petitioners has further argued that in some cases, promotions have been granted after the decision of the Hon'ble

Supreme Court in M.Nagaraj and others v. Union of India and others, (2006)

8 SCC 212, without following the mandatory parameters laid down therein.

Counsel for the respondents, on the other hand, state that to their knowledge, in none of these cases it has been done but they fairly state that if in any case any reserved category candidate has been granted promotion contrary to the decision in M.Nagaraj and others (supra), the concerned general category employee may make a representation in this regard within a period of two months from the date of receipt of a certified copy of this order, and the competent authority will decide the same by passing a speaking order thereon within a further period of three months. With this caveat, all these writ petitions are dismissed.

March 13, 2015
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(AJAY TEWARI)
JUDGE