

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

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| 1. | | CWP No.5059 of 2011(O&M)
Date of decision: 27.05.2015 |
| | Harpal Singh | Petitioner |
| | Versus | |
| | State of Punjab and others | Respondents |
| 2. | | CWP No. 23165 of 2012 |
| | Gurmit Kaur | Petitioner |
| | Versus | |
| | State of Punjab and others | Respondents |
| 3. | | CWP No. 13170 of 2012 (O&M) |
| | Suresh Kumar | Petitioner |
| | Versus | |
| | State of Punjab and others | Respondents |
| 4. | | CWP No. 19531 of 2012 |
| | Manjit Singh and others | Petitioners |
| | Versus | |
| | State of Punjab and others | Respondents |
| 5. | | CWP No. 19995 of 2012 |
| | Jagtar Singh and others | Petitioners |
| | Versus | |
| | State of Punjab and others | Respondents |
| 6. | | CWP No. 20040 of 2012 |
| | Mali Singh and others | Petitioners |
| | Versus | |
| | State of Punjab and others | Respondents |
| 7. | | CWP No. 20811 of 2012 |
| | Ram Lal | Petitioner |
| | Versus | |
| | State of Punjab and others | Respondents |
| 8. | | CWP No. 21269 of 2012 |
| | Simerjit Kaur and others | Petitioners |
| | Versus | |
| | State of Punjab and others | Respondents |

9. CWP No. 23323 of 2012
 Inqulab Rai and others Petitioners
 Versus
 State of Punjab and others Respondents
10. CWP No. 23725 of 2012
 Hans Raj Petitioner
 Versus
 State of Punjab and others Respondents
11. CWP No. 23934 of 2012
 Gurmit Singh and others Petitioners
 Versus
 State of Punjab and others Respondents
12. CWP No. 24668 of 2012
 Sukhdev Chand and others Petitioners
 Versus
 State of Punjab and others Respondents
13. CWP No. 19158 of 2013 (O&M)
 Nirmal Singh and others Petitioners
 Versus
 State of Punjab and others Respondents
14. CWP No. 12593 of 2014
 Rajwinder Kaur Petitioner
 Versus
 State of Punjab and others Respondents
15. CWP No. 23750 of 2012
 Lakhbir Rai Petitioner
 Versus
 State of Punjab and others Respondents
16. CWP No. 5654 of 2014
 Gurshran Kaur and others Petitioners
 Versus
 State of Punjab and others Respondents

17. CWP No. 15703 of 2012
 Prem Kumar and others Petitioners
 Versus
 State of Punjab and others Respondents
18. CWP No. 16214 of 2012
 Vijay Kumar and others Petitioners
 Versus
 State of Punjab and others Respondents
19. CWP No. 21302 of 2012
 Sulakhan Singh Petitioner
 Versus
 State of Punjab and others Respondents
20. CWP No. 22790 of 2012
 Manjit Kaur Petitioner
 Versus
 State of Punjab and others Respondents
21. CWP No. 25445 of 2012
 Sagar Singh Petitioner
 Versus
 State of Punjab and others Respondents
22. CWP No. 18831 of 2012
 Balbir Singh and others Petitioners
 Versus
 State of Punjab and others Respondents
23. CWP No. 20825 of 2011
 Harminder Kaur Petitioner
 Versus
 State of Punjab and others Respondents
24. CWP No. 17938 of 2011
 Balwinder Singh and others Petitioners
 Versus
 State of Punjab and others Respondents

25. CWP No. 14657 of 2011
 Ashok Kumar and others Petitioners
 Versus
 State of Punjab and others Respondents
26. CWP No. 13893 of 2011
 Sarla Rani and others Petitioners
 Versus
 State of Punjab and others Respondents
27. CWP No. 7951 of 2012
 Pushap Varsha Petitioner
 Versus
 State of Punjab and others Respondents
28. CWP No. 8642 of 2011
 Kulwant Singh Petitioner
 Versus
 State of Punjab and another Respondents
29. CWP No. 5049 of 2011 (O&M)
 Salinder Singh and others Petitioners
 Versus
 State of Punjab and others Respondents
30. CWP No. 5736 of 2011 (O&M)
 Prabhjot Singh and others Petitioners
 Versus
 State of Punjab and others Respondents
31. CWP No. 16567 of 2010
 Sarvesh Kumar Petitioners
 Versus
 State of Punjab and others Respondents
32. CWP No. 20218 of 2012
 Gurcharan Singh Petitioners
 Versus
 State of Punjab and others Respondents

33. CWP No. 19692 of 2013
 Harjit Kaur Petitioner
 Versus
 State of Punjab and others Respondents
34. CWP No. 7040 of 2013
 Jasvir Singh Petitioner
 Versus
 State of Punjab and others Respondents
35. CWP No. 18914 of 2011
 Manjinder Singh and others Petitioners
 Versus
 State of Punjab and others Respondents
36. CWP No. 17361 of 2012
 Dharampal Petitioner
 Versus
 State of Punjab and others Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Pranav Chadha, Advocate for
 Mr. Arjun Prtap Atma Ram, Advocate
 Ms. Manpreet Kaur, Advocate for
 Mr. Sandeep Arora, Advocate
 Mr. Amrik Singh, Advocate
 Mr. Kapil Kakkar, Advocate
 Mr. Pawan Kumar, Advocate for
 Mr. Amit Chopra, Advocate
 Mr. Kewal Krishan, Advocate for
 Mr. Harinder Sharma, Advocate
 Mr. Sameer Sachdeva, Advocate
 Mr. Viranjeet Singh Mahal, Advocate for
 Mr. P.K.Mutneja, Advocate
 Mr. K.G.Chaudhary, Advocate
 Mr. S.K.Rattan, Advocate
 Mr. Nirmal Singh, Advocate
 Mr. R.K.Arora, Advocate
 Mr. Anshuman Chopra, Advocate
 Mr. Munish Bhardwaj, Advocate
 Mr. Gurcharan Singh, Advocate for
 Mr. K.B. Raheja, Advocate
 Mr. Amardeep Singh Sheoran, Advocate
 Mr. Rajnish K. Jindal, Advocate
 Mr. Om Pal Sharma, Advocate
 Mr. Vijay Lath, Advocate
 Mr. RS Chauhan, Advocate
 Mr. RS Manhas, Advocate for the petitioners.

Mr. Harsimran Singh Sethi, Addl.AG, Punjab with
Mr. Lalit Kishore Ghai, Asst. Director, School Admn.
(SE) (I) C/o DPI (SE), Punjab.

Mr. Pawan Kumar, Senior Advocate with
Mr. Abhimanyu Batra, Advocate
Ms. Anu Chatrath Kapur, Senior Advocate with
Mr. Rakesh Sobti, Advocate
Mr. G.P.Vashisht, Advocate
Mr. Parvez Akhtar, Advocate for the private respondents

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?

ARUN PALLI J. (Oral)

What has been assailed in this bunch of 36 petitions, is the seniority list of Lecturer School Cadre dated 07.03.2011 (Annexure P7). A multiple challenge is laid thereto. An application bearing Civil Misc. No.6796-2015 was moved in one of these petitions i.e. CWP-5059-2011, and the issues that would require consideration of this court as regards the validity of the seniority list in question (Annexure P7) have been culled out. In response, an affidavit dated 27.05.2015, of Director Public Instructions (SE), Punjab, Department of School Education, has been filed in court today, by learned Additional Advocate General, Punjab, and the same is taken on record. Copy supplied to learned counsel for the petitioners and also for the private respondents.

It appears that the controversy can be resolved. Broadly, an analysis of the affidavit dated 27.05.2015, reveals that concededly the issues that have been raised, require

consideration and consequently reconsideration of the seniority list dated 07.03.2011 (Annexure P7). Further, the department is ready to re-visit the matter in issue, in terms of the decision rendered by this court in **R.L. Bhagat v. State of Punjab and others, 2010(3) SLR 737**, and also the instructions issued by the Government dated 10.10.2014. And that being so, the department shall afford all the effected persons i.e. effected by seniority list dated 07.03.2011, a chance to represent their cases. Thereafter, all those who would file representations would also be afforded a personal hearing individually or even in a representative capacity. It is suggested that post receipt of the representations, the process of personal hearing would commence by 10.07.2015 and would take nearly two months. Thereafter, a final decision as regards the seniority list dated 07.03.2011 would be reached by the Government by 30.09.2015. And interim order(s) passed by this court would continue to operate in the interregnum i.e. till the matter is decided afresh. It would be apposite to refer to the affidavit dated 27.05.2015, that has been filed in complete and the same reads as thus:

“1. That the above writ petition is pending before this Hon’ble Court and is now fixed for 27.05.2015. A number of similar petitions have been clubbed with the present writ petition, wherein seniority list dated 07.03.2011 has been challenged.

2. That it is submitted that an application has been filed by the petitioners wherein he has raised

certain issues, with respect to the seniority list dated 07.03.2011. Primarily the issues raised are as to whether the catch up rule will apply as envisaged in the judgment of Hon'ble Supreme Court of India in Ajit Singh Janjua Vs. State of Punjab, and whether the said catch up rule has been followed or not, while preparing the seniority list dated 07.03.2011. Further the issue has been raised as to whether, once the Government of Punjab has issued instructions that only accelerated promotion is to be granted to the reserve category candidates and not seniority, then how the seniority has also been granted to the reserve candidates while framing the seniority list dated 07.03.2011. Further issue has been raised as to whether the seniority list which has framed by complying 85th amendment to the constitution of India, without there being any quantifiable date prepared by the State of Punjab as envisaged in the judgment of M. Nagraj, is correct or not. Further, the petitioners have also raised the issue as whether the seniority list of 2009 can be altered, which was being defended by the State of Punjab as being correct and that too, only on the direction given by the National Schedule Castes Commission.

3. That the Department has considered the issues raised by the petitioners in the present application in the light of the orders passed by the Committee by which the seniority list dated 07.03.2011 was finalized. In para 2(1) of the Committee has been mentioned that the catch up rules was only applicable till the 85th Constitution amendment which came into being from 17.06.1995 and the catch up rules as envisaged in Ajit Singh Janjua's case is not available thereafter. Further it has been mentioned that in paragraph-3 of the order that the

seniority is to be given on the basis of roster point. Department is of the opinion that these issues prima facie needs consideration and consequent reconsideration of seniority list dated 07.03.2011, keeping in view the judgment of this Hon'ble Court in R.L. Bhagat's case as well as the instructions which have been issued by the Government of Punjab dated 10.10.2014.

That law laid down by this Hon'ble Court in R.L. Bhagat's case interpreting the reservation Act 2006 issued by State of Punjab that there is no consequential seniority to be given to the reserve category candidated has escaped the notice of the authorities while framing the seniority list dated 07.03.2011.

4. That the department will given the affected persons i.e. effected by the seniority list dated 07.03.2011 a chance to represent their case to the Government and thereafter, all those who files representations, will be given the hearing individually or in a representative capacity and thereafter, a decision will be taken by the Government in respect of the seniority list dated 07.03.2011 in the light of the law which prevaisel in the State of Punjab, including the instructions issued by the State on this issue. Till then, the interim orders passed by the Hon'ble Court will continue and no promotion or reversion will be done.

5. That it is prayed that for revisiting the issue of seniority list dated 07.03.2011, the department proposes that an advertisement will be given in the news paper and notice will be published on the website by dated 10.06.2015. In the said notice, time will be given to the affected parties, who oppose the seniority list dated 07.03.2011 or support the seniority list dated 07.03.2011 to make

representations by 25.06.2015. Thereafter, scrutiny the representations so received, the affected parties will be called for personal hearing either individually or in the representative capacity and the hearing will be commence by 10.07.2015. As the cadre strength of lecturer in the Dept. of School in 12,245. Hence, it is expected that a large of number of objecting are expected to be filed. Hence, the process of hearing their objections in person or through representatives will take nearly 2 months. That after the hearing is complete, all the date will be complied and a decision respect of the seniority list dated 07.03.2011 will be taken keeping in view law or present as well as the instructions issued by the State of Punjab. The said decision will be taken by the Government by 30.09.2015.

7. That in case the above is acceptable to the petitioners in all the writ petitions and to this Hon'ble Court, the above mentioned writ petition as well as other connected writ petitions may kindly be disposed of interms of the above.

8. As the case involves policy relating to reservation and the decision taken in this case to be applicable to all other departments, it is suggested that the review Committee heard by the Department will be assisted by appropriate representatives from Deptt. of Personnel and Deptt. of Welfare."

In the wake of the position as set out above, learned counsel for the parties are ad idem that let these petitions be disposed of in terms of the affidavit, dated 27.05.2015, of the Director Public Instructions (SE), Punjab. It is conceded by all the learned counsel, that the parties to the lis shall abide by the assurance/undertaking/terms of the affidavit dated

27.05.2015. None has expressed any disagreement to the suggested course. Learned State counsel, on instructions, submits that after a final decision is reached by the Government by 30.09.2015 as regards the seniority list dated 07.03.2011, consequential promotions or reversions, if any, shall be effected within a further period of two months thereafter.

That being so, these petitions are disposed of strictly in terms of the duly sworn affidavit of Director Public Instructions (SE), Punjab, Department of School Education, dated 27.05.2015. Needless to assert, the respondent-department shall strictly adhere to the process that has been suggested in the affidavit and would abide by the designated time schedule.

May 27, 2015
Rajan

(Arun Palli)
Judge