

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

Civil Writ Petition No.1841 of 2015

Date of decision: 5.2.2015

Usha Kumari and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.H.S.Saini, Advocate,
for the petitioners.

Mr.D.S.Rawat, Advocate,
for the caveator.

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

RAJIV NARAIN RAINA, J. (Oral)

Heard the petitioner and the caveator.

Learned counsel for the caveator relies on a decision of this Court in CWP No.7699 of 2013 rendered on 9.1.2014 in **Nirmal Singh & others v. State of Punjab and others** and the consequential order passed in review application No.249 of 2014 on 18.7.2014, and, therefore, no cause of interference is made out as the Government of Punjab has not carried out any exercise so far to gather quantifiable data to justify the test laid down in **M. Nagaraj v. Union of India**; (2006) 8 SCC 212. In the absence of that exercise, it is not possible to interfere in this case when the admitted

position is that the petitioners at level I were junior to the general category candidates, including the caveator. The accelerated promotion to level II [Nursing Sisters] will not bring the fruit of accelerated seniority for further promotional posts since in the absence of exercise carried out in **M. Nagaraj's** case [supra] the principle of “catch up” enunciated in **Ajit Singh Janjua and others v. State of Punjab and others**, 1999 [4] RSJ 211 would apply and the general category candidates would regain their earlier positions to be reflected in promotional posts.

In case, the final seniority is challenged on the principle of reservation, then the petitioner may have no case. However, if there are errors with respect to two separate categories prejudicing each other and putting each other to disadvantage, then it would be open to the petitioners to make a representation to the Government for correction of the seniority list. In case, such an application is filed, this Court has no doubt that it would be addressed by the Government and the interest of both sides would be balanced out on the scales of justice. In case, any objections have been filed to the final seniority list found at page 45 and onwards of the paperbook, then those would also need to be addressed, in case rules provide a decision on objections received after the seniority list is finalised. However, challenge to the seniority list based on rule or reservation is negatived at this stage.

The petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

February 5, 2015
Paritosh Kumar