

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

Civil Writ Petition No.21852 of 2015

Date of decision: 30.10.2015

Sat Pal

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Madhav Pokhrel, Advocate,
for the petitioner.

Mr.Inqulab Nagpal, AAG, Punjab.

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

RAJIV NARAIN RAINA, J. (Oral)

The original roster register has been produced in Court today.

Mr.Inqulab Nagpal, AAG, Punjab appearing for the State has confirmed from the register that respondent No.4 [Darshan Kaur] was promoted as Block Primary Education Officer Class-III on 21st February, 2014 not with the aid of reservation but on seniority-cum-merit by counting her seniority from the feeder cadre of Central Head Teacher [CHT] from 2005 when Darshan Kaur was promoted as CHT on reserved roster by way of accelerated promotion. By applying the law in **Ajit Singh Janjua-II and others v. State of Punjab and others**; AIR 1999 SC 3471, the petitioner

who was promoted as Central Head Teacher as per her seniority in the general category in 2009 would catch up with the fourth respondent the moment he was promoted as CHT and his previous seniority would be restored. It may be noted that the petitioner was appointed at Level-I JBT teacher on *ad hoc* basis on 7.11.1975 and regularized on 1.4.1977 while Darshan Kaur was appointed as JBT teacher on *ad hoc* basis on 25.2.1983 and was regularized on 9.10.1987. As a result, petitioner-Sat Pal had a preferential right for promotion when Darshan Kaur was promoted as Block Primary Education Officer [BPEO] and the Government committed an error in ignoring the claim of the petitioner on the basis of catch up rule.

Mr.Inqulab Nagpal on instructions from Mr.Uday Kumar, Assistant Director Office of DPI [EE] present in Court informs that there are more than one post of BPEO in District Ferozepur and one post is lying vacant.

In view of the factual position, this petition is allowed. The impugned action of the Department in not promoting the petitioner as BPEO from the date when Darshan Kaur-respondent No.4 was promoted is declared unlawful and the record, if any, on the files of the Government indicating to the contrary shall stand quashed by issuance of certiorari and such decisions on the file will not be read against the petitioner. Consequently, a mandamus is issued to the respondent department to promote the petitioner with effect from 21.2.2014 as Block Primary Education Officer with all consequential benefits flowing therefrom. The Government would examine all other parameters prescribed for promotion under the rules and if those are met and satisfied and there is nothing against

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the petitioner in the way of promotion, then he be promoted within one month from the date of receipt of a certified copy of this order. The petitioner shall have the costs of the petition which is assessed at ₹ 10,000/-.

**(RAJIV NARAIN RAINA)
JUDGE**

October 30, 2015

Paritosh Kumar