

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

Civil Writ Petition No.2743 of 2015

Date of decision: 18.2.2015

Varinder Kumar Sareen

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Rajinder Sharma, Advocate,
for the petitioner.

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 short controversy involved in this case is to the application of the “catch-up” rule evolved in Ajit Singh Janjua-II (1999). The petitioner belongs to the general category. Private respondent No.5 is a member of the reserved category (SC). At one time, both belonged to the Masters cadre. The fifth respondent got the benefit of accelerated promotion based on accelerated seniority to the post of Lecturer in 1991. The petitioner was promoted on his own turn as per seniority in 2001. In 2001, the law required the rule of “catch-up” to be applied by restoring the seniority of the petitioner to reflect the seniority in the cadre of Masters, where indisputably, the petitioner was senior to the reserved category candidates.

Learned counsel says that a seniority list was drawn in 2011 but

the principle of “catch-up” was not applied in the case of the petitioner declaring him senior to the fifth respondent when it should have been in view of the law declared in Ajit Singh Janjua-II and R.K.Sabharwal and others v. State of Punjab and others.

Be that as it may, the fifth respondent was further promoted as Principal in 2012 and continued till he retired on reaching the age of superannuation in 2013. Nevertheless, the petitioner was not promoted as Principal and has approached this Court for directions to the respondents in the background of the fact that his case for promotion as Principal has been forwarded by the 4th respondent to the 2nd respondent in December, 2014 but the matter has not been further processed nor has anything been communicated to the petitioner as to the fate of those recommendations and in case there is further delay his case for promotion to the post of Principal will be delayed further and in all probability, he would retire in the meanwhile.

Learned counsel relies on the policy instructions issued by Government of Punjab dated 10.10.2014 [P-4] where a clarification has been issued with respect to considering roster points as seniority points. It was settled in Ajit Singh Janjua-II that roster points are not seniority points and that is how, the principle of “catch-up” and the replacement theory were introduced by the Supreme Court. These instructions serve as a warning to the functionaries of the State to deal with matters relating to the prescribed percentage of reservation available to the reserved categories. It has been declared that the roster registers do not determine seniority.

Learned counsel would also point out to the decision of this Court in CWP No.22736 of 2012 decided on 10th October, 2014; Jasman

Singh v. State of Punjab and others and the decision of this Court speaking through Permod Kohli, J. in CWP No.1960 of 2008 decided on 9th September, 2009; Prithpal Singh v. State of Punjab and others where the instructions of the Punjab Government were struck down as contrary to the mandate of the Supreme Court in **M. Nagaraj v. Union of India**; (2006) 8 SCC 212. and the seniority lists based on those instructions dated 15th December, 2005 etc. were quashed.

Without expressing any opinion on the matter and to know the view of the primary officer, a direction is issued to the 2nd respondent to treat the present petition as a representation and make a decision thereon with respect to the rights of the petitioner on the application of the “catch-up” rule in the context of Ajit Singh Janjua-II, M.Nagaraj cases and the policy instructions dated 10th October, 2014 of the Punjab Government and considering the case of the petitioner for promotion, going by the admitted fact, that in the original seniority of Masters, the petitioner was senior to the fifth respondent and lost out because of accelerated seniority and consequential promotion and grant of further promotion as Principal to the 5th respondent from where the rights of the petitioner may have to be determined.

Let a final order be passed within one month from the date of receipt of a certified copy of this order. In case, hearing is required, that period shall stand extended by 15 days.

Disposed of in the above terms.

(RAJIV NARAIN RAINA)
JUDGE

February 18, 2015
Paritosh Kumar