

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

1. CWP No.9870 of 2014
Date of decision: 02.07.2015.

Anant Ram Sharma

..Petitioner

Versus

State of Haryana and others

..Respondents

2. CWP No.10238 of 2014

Ishwar Chand

..Petitioner

Versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. Whether reporters of local newspapers may be allowed to see judgment? Yes/No

2. To be referred to reporters or not? Yes/No

3. Whether the judgment should be reported in the Digest? Yes/No

Present: Mr. D.S. Rawat, Advocate
for the petitioner(s).

Mr. Harish Rathee, Sr. D.A.G., Haryana
for the respondents – State.

Daya Chaudhary, J.

By this judgment, two cases bearing CWP No.9870 of
2014 and CWP No.10238 of 2014 shall be disposed of as common

question of law and issue is involved in both the cases. However, for the sake of convenience, the facts are being extracted from CWP No.9870 of 2014.

The petitioner belongs to General Category. Initially, he was appointed as Irrigation Booking Clerk/Canal Patwari on 17.09.1974. He was promoted as Assistant Revenue Clerk on 30.11.1981 and as Revenue Clerk on 28.11.1995. Thereafter, he was also promoted as Zildar on 01.01.1996. One Sh. Raghubir Singh, who belongs to Scheduled Caste Category, was appointed as Irrigation Booking Clerk/Canal Patwari on 18.11.1974 and was promoted as Assistant Revenue Clerk on 19.03.1979 by giving the benefit of reservation policy of State Government. He was further promoted as Revenue Clerk on 11.05.1982 and also as Zildar on 17.05.1992. The petitioner caught up said Raghubir Singh on the higher post on two occasions i.e., on the post of Assistant Revenue Clerk and on the post of Zildar. Ultimately, the petitioner retired from the post of Zildar on 31.12.2010 and said Raghubir Singh retired from the post of Zildar on 30.04.2012. The petitioner made a representation dated 02.11.2010 to the respondents to step up his pay at par with his junior Raghubir Singh. The pay of the petitioner was stepped up at par with Raghubir Singh on the post of Assistant Revenue Clerk but his claim for stepping up his pay at par with Raghubir Singh on the post of Zildar was rejected vide order dated 03.02.2014 (Annexure P-6) on the ground that the benefit of

reservation cannot be granted to him as the promotion is to be given on the basis of 'seniority-cum-fitness' as per the government letter dated 09.02.1979. Said impugned order dated 03.02.2014 is subject matter of challenge in the present writ petition.

Learned counsel for the petitioner submits that controversy in the present case is squarely covered by the judgments of this Court in **CWP No.5956 of 2008** titled as '**Charan Dass vs. State of Haryana**' decided on **18.11.2008** as well as **CWP No.17280 of 2011** titled as '**Prem Kumar Verma and others vs. State of Haryana**' decided on **07.08.2012**. Said judgments were based on the decision passed by Hon'ble the Apex Court in **Ajit Singh Janjua and others vs. State of Punjab and others, 1999(4) RSA 211 (SC)** wherein it was held that though a reserved category employee can be promoted on a higher post on the basis of reservation (roster point) but whenever a senior general category employee will catch that reserved category junior employee on the higher post, the senior general category employee will be declared senior on that particular post and will be granted benefits accordingly.

Learned State counsel opposes the submissions made by the learned counsel for the petitioner and submits that the seniority list of the Ziledars has not been prepared/circulated in the respondent department, therefore, the claim of the petitioner cannot be accepted. Learned State counsel further submits that the issue of seniority has been decided without even having any seniority list. The petitioner is

relying his claim on the seniority list of Canal Patwaris issued in the year 1996 but said seniority list does not reflect the seniority or promotion at the higher posts i.e., Assistant Revenue Clerk or Zileदार. Learned State counsel also submits that the claim of the petitioner cannot be considered in view of the ratio of judgments relied upon by the learned counsel for the petitioner.

Heard the arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the impugned order and other documents available on the file.

Admittedly, the petitioner belongs to General Category whereas his junior Raghbir Singh belongs to Scheduled Caste Category. Said Raghbir Singh was promoted as per roster point by giving benefit of reservation and the petitioner, who was senior to him, was also promoted on various dates. The petitioner caught up his junior Raghbir Singh on the higher post on two occasions i.e., on the post of Assistant Revenue Clerk and thereafter, on the post of Zileदार.

The petitioner made a representation for stepping up his pay at par with his junior Raghbir Singh on account of catching up on the post of Zileदार but his claim was rejected.

The same controversy was before Hon'ble the Supreme Court in **Ajit Singh Janjua's case (supra)** wherein it was held that the reserve category employee can be promoted on a higher post on the basis of reservation and senior general category employee is entitled to catch up the reserve category junior employee on the

higher post. The senior general category employee is to be declared senior on that particular post and he will also be entitled to the benefits of the higher post.

In **Charan Dass's case (supra)**, the claim of the petitioner was allowed by holding that he was entitled for benefits of stepping up at par with his junior scheduled caste category employee. The judgment of **Charan Dass's case (supra)** was circulated and that decision was generalized vide letter dated 05.03.2009.

The controversy in the present cases is squarely covered by the judgments of **Ajit Singh Janjua's case (supra)** as well as **Charan Dass's case (supra)** but still the claim of the petitioner has been rejected.

In **Prem Kumar Verma's case (supra)**, the petitioners were general category employees and were held entitled for the benefit of stepping up their pay at par with their junior Amar Singh from the date of their promotion to the post of Accounts Clerk. The consequential benefits were also directed to be released to the petitioners.

In view of the fact that the controversy in these two cases is squarely covered by the ratio of judgments in **Ajit Singh Janjua's case (supra)**, **Charan Dass's case (supra)** as well as **Prem Kumar Verma's case (supra)**, the impugned order dated 03.02.2014 (Annexure P-6) is hereby quashed and the respondents are directed to consider the claim of the petitioner for stepping up his pay at par

with his junior Raghubir Singh and to pay the consequential benefit in view of the aforesaid decisions within a period of three months from the date of receipt of certified copy of this order. In case, the petitioner is found to be entitled for the relief sought, the same be granted to him along with all the consequential benefits.

Disposed of accordingly.

02.07.2015
neetu

(DAYA CHAUDHARY)
JUDGE