

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA No.1386 of 2014 (O&M)

Date of Decision: 23.8.2016

Haryana Power Generation Corporation Ltd. and others

..Appellants

Vs.

Sukhvir Singh

..Respondent

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE SUDIP AHLUWALIA**

Present: Mr.Pardeep Singh Poonia, Advocate for the appellants.

Mr.Vikas Chatarath, Advocate for the respondent.

SURYA KANT, J.

The instant Letters Patent Appeal assails the order dated 14.10.2011 whereby learned Single Judge allowed the respondent's writ petition and has directed the appellants to step up his pay at par with his junior by applying the two decisions of this Court in ***CWP No.20351 of 2008 titled as V.B.Nanda and others Vs. UHBVN and others decided on 14.7.2010*** and ***CWP No.5956 of 2008 titled as Charan Dass Vs. State of Haryana and another decided on 18.11.2008***.

We have gone through both the cited decisions, which are based upon the 'catch up' principle. It can thus be safely inferred that learned Single Judge accepted the claim of those writ petitioner(s) by applying the 'catch up' principle. However, the facts as demonstrated by the appellants through a tabulated form in ground No.5 of grounds of appeal reveal that first respondent could not catch up the reserve category incumbent (Prabhu Dayal) at any stage in the cadres of Draftsman or Head

Draftsman. The respondent did not get any promotion as Circle Head Draftsman as his junior from reserved category got it on 15.9.1983 much before the date when respondent was promoted as Head Draftsman on 6.9.1989. In view of these facts, 'catch up' principle is not attracted in the instant case.

Learned counsel for the respondent, however, may be right in contending that his claim is worth acceptance on the plea of discrimination or other grounds which have now been taken at the appellate stage. Since those issues were not gone into by the learned Single Judge, it appears expedient to remit the case to learned Single Judge for fresh adjudication after giving one opportunity to the appellants to file additional affidavit in reply to the new grounds taken by the respondent. Ordered accordingly.

For the reasons afore-stated the appeal is allowed in part; order dated 14.10.2011 and subsequent order dated 3.3.2014 passed in Review application are set aside and the case is remitted to the learned Single Judge to decide the same afresh. Appellant may file additional affidavit on the date of appearance before the learned Single Judge. Parties are directed to appear before learned Single Judge on 19.9.2016.

(SURYA KANT)
JUDGE

(SUDIP AHLUWALIA)
JUDGE

23.8.2016
Meenu

Whether speaking/reasoned	-	Yes/No
Whether Reportable	-	Yes/No