

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

LPA No.81 of 2016

Date of Decision: 11.8.2016

State of Punjab and others

..Appellants

Vs.

Sat Pal and another

..Respondents.

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

Present: Mr. Rajesh Bhardwaj, Addl.AG Punjab for the appellants.
Mr. Madhav Pokhrel, Advocate for respondent No.1.
Mr. Puneet Kumar Bansal, Advocate for respondent No.2.

SURYA KANT, J.

The first respondent belongs to general category. He filed writ petition seeking promotion from the date, respondent No.2 (Darshan Kaur who is from reserved category) was promoted. The question that arose for consideration before the learned Single Judge was whether the principle of “catch up” would apply and if so whether the first respondent is entitled to be considered for promotion from the date his junior was promoted? The question has been answered in favour of first respondent in the light of the following facts:

“The original roster register has been produced in Court today. Mr.Inqulab Nagpal, AAG Punjab appearing for the State has been 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 regularised on 1.4.1977 while Darshan Kaur was appointed as JBT Teacher on ad hoc basis on 25.2.1983 and was regularised 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.....”

It may be seen from the above reproduced facts that the first respondent joined as JBT Teacher on 7.11.1975 as against respondent no.4, who joined on 25.2.1983. Their services were regularised w.e.f. 1.4.1977 and 9.10.1987, respectively. The first respondent was thus, 10 years senior to respondent No.4. In this view of the matter, once both of them stood promoted as Central Head Teachers, the principle of catch up became operative. This is what precisely the learned Single Judge has done on the strength of the Apex

Court decision in *Ajit Singh Janjua-II and others Vs. State of Punjab and others AIR 1999 SC 3471*.

No different view is possible, hence we do not find any merit in this appeal. However, keeping in view the fact that inter-se seniority or promotion claims based upon catch up Rule still continue to be contentious issues, we are of the opinion that the learned Single Judge ought not to have imposed the costs of ₹10,000/- on the State. The appeal is accordingly dismissed but the order of learned Single Judge to the extent of imposing costs of ₹10,000/- is set aside.

(SURYA KANT)
JUDGE

(SUDIP AHLUWALIA)
JUDGE

11.8.2016
Meenu

Whether speaking/reasoned - Yes/No

Whether Reportable - Yes/No