

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH.**

DATE OF DECISION: 31.01.2017

1. RSA-646 of 1994

Punjab State Electricity Board **...Appellant.**

VERSUS

Ram Dass **...Respondent.**

AND

2. RSA-833 of 1994

Punjab State Electricity Board **...Appellant.**

VERSUS

Gian Singh **...Respondent.**

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vikas Mohan Gupta, Advocate
for the appellants.

Mr. Vipin Mahajan, Advocate
for the respondents.

RAJIV NARAIN RAINA, J. (Oral)

This order disposes of two appeals, namely, RSA-646 and 833 instituted in the year 1994 when the law of reservation in promotions and consequential seniority was largely in a state of flux. The law began to be crystallized for the first time in State of Punjab v. R.K.Sabharwal, (1995) 2 SCC 745 on the working of the roster and how it perishes when the prescribed percentage is achieved. The replacement theory was introduced and the working of the roster as explained was made prospective. Then came the law in Union of India v. Vir Pal Singh Chauhan, (1995) 6 SCC 684 explaining seniority on roster points of reserve category candidates in

include reserve category candidates will be senior to next panel of both categories. Then the law was pronounced in Ajit Singh Janjua v. State of Punjab-I, (1996) 2 SCC 215, the Supreme Court holding authoritatively that roster points are not seniority points. The law was further refined in Ajit Singh Janjua v. State of Punjab-II, (1999) 7 SCC 209 and Sube Singh Bahmani v. State of Haryana, (1999) 8 SCC 213, where the Supreme Court introduced and explained the principle of catch up, meaning thereby, that an earlier promotion of reserve category candidate would not confer seniority on him to get accelerated seniority as against general category candidate who is promoted later. The general category candidate will regain his seniority with right to further promotion as senior to his reserved counterpart unless the reserve category candidate secures another roster point promotion if reserved point is available and the general category candidates turn has not come. In this accelerated promotion of reserved category candidate there is no suppression of general category candidate involved who has to wait for promotion as per turn. The judgments noticed above are constitution benches of the Supreme Court.

These concepts were not available to both the Courts below when the judgment was passed and therefore their work cannot be criticized but today the position is clear and the Board is correct in contending that the judgment of lower appellate Court cannot hold water and it has to be set aside because of principles in *Ajit Singh Janjua I & II* cases etc.

As a result of hearing the learned counsel for the parties, the appeal is allowed. The judgment and decree passed by lower appellate Court

Before parting, I may record that the respondents have long since retired and any order passed which may tend to disturb the equilibrium will result in administrative chaos in re-working of seniority lists issued from time to time on which many past promotions must have been based, which is neither a prudent thing to do nor would it be a practical enterprise, even if the appeal was dismissed, which is not the case.

However, it is directed that the acceptance of the appeal on the legal issue decided will not result in unsettling the rights, if any, of the parties after long passage of time and the monetary benefits which they are accustomed to receive from the Board as retirees will not be reopened or disturbed. Seniority positions *inter se* may be notionally corrected by the appellant Board.

(RAJIV NARAIN RAINA)
JUDGE

31.01.2017.
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Whether speaking/reasoned: *Yes*
Whether reportable: *No*