

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.6531 of 1998 (O&M)

Date of Decision: 13.02.2017

Anil Kumar and others

... Petitioners

Versus

The Food Corporation of India and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. D.S. Patwalia, Sr. Advocate,
with Mr. Gaurav Rana, Advocate,
for the petitioners.

Mr. Banni Thomas, Advocate,
for the respondent-FCI.
None for the private respondents.

RAJIV NARAIN RAINA, J.

1. Mr. Banni Thomas, learned counsel appears for respondent-FCI on MoA which is taken on record.
2. Heard Mr. Patwalia and learned counsel for the FCI.
3. This is a dispute involving seniority of the petitioners seeking quashing of the tentative seniority list of Assistants Grade-1 (Accounts) circulated on October 13, 1997 (P-8) by the department whereby the petitioners have been shown junior to the private respondents who are arrayed as non-official respondents and are numerous in numbers.
4. The prayer is for quashing of the order dated March 17/18, 1998 whereby the Corporation has rejected the representations and objections filed by the petitioners against the tentative seniority list. Some

of the private respondents had by then been promoted to the higher post of Assistant Manager (Accounts) on the basis of the impugned tentative seniority list. It appears that the respondents have had the benefit of accelerated seniority for further promotions. This petition was filed in 1998 when the law in Ajit Singh Januja-II and others vs. State of Punjab and others, AIR 1999 SC 3471 has not been stated by the Supreme Court. This petition was filed when Ajit Singh Januja-I and others vs. State of Punjab, [1996] 2 SCC 715 had been pronounced which held authoritatively that reserve roster points are not seniority points. The principle of catching up was introduced in 1999 in Ajit Singh-II case. Therefore, the reservation law in promotions and seniority underwent a sea change since the filing of the petition. The general category candidates would catch up with their earlier promoted reserve category candidates and would have their seniority restored for further promotion. At present, the law in M. Nagaraj and others vs. Union of India and others, (2006) 8 SCC 212 holds the field where reservation in promotions and consequential seniority can be worked not without gathering quantifiable data etc. to justify continued reservation in promotions. That exercise is not completed either at the Central Government level or the State and the Corporations.

5. Accordingly, this petition is disposed of with a direction to the respondent-Corporation to re-examine the issues in the light of the judgments passed after Ajit Singh Januja-I and apply those principles in re-drawing the seniority, in case it has not already done so, after hearing all concerned. If any of the parties have any grievance they are at liberty to move an application for revival of this petition for a decision on merits.

6. With the above observations and directions, the petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

13.02.2017
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Whether speaking/reasoned *Yes*

Whether reportable *No*