

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-24671-2016

Date of Decision: January 17, 2017

Union of India and others

.....Petitioners

Versus

Shaneel Rana and others

.....Respondents

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

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.P.C.Goyal, Advocate
for the petitioner.

Mr.D.P.Sharma & Mr.Sanjeev Pandit, Advocates
for the Caveators.

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SURYA KANT, J.

Union of India and Controller General of Defence Accounts have preferred this writ petition against the order dated 17.08.2016 whereby Central Administrative Tribunal, Chandigarh Bench (for short, 'the Tribunal') has allowed the Original Application filed by the first respondent observing that the point in issue stands completely answered in favour of the first respondent by a decision of the Hon'ble Supreme Court in **S.Panneer Selvam and others vs Government of Tamil Nadu and others**, 2015(10) SCC 292.

[2] The controversy pertains to the applicability of 'catch up' principle as the reserved category employees were granted promotion

against roster points over and above their seniors of general category. Respondent No.1 belongs to general category and he sought a direction to apply the catch up principle and declare him senior to the private respondents belonging to the reserved category, for the purpose of further promotion.

[3] The Tribunal has held as follows:-

“14. The decision in the case of S.Paneerselvem (supra) applies on all fours to the facts of this case. As per the admitted stand of the respondents, the reserved category private respondents have been promoted by grant of reservation in promotion and catch up principle in feeder cadre has also not been followed thereby pushing the applicant down in the seniority list. In view of the admitted position that the catch up principle for fixation of seniority in feeder cadre has not been followed and as such the action of the respondents is declared as illegal. The promotion of private respondents (except No.4) based on such illegal seniority to the post of Junior Time Scale of IDAS is also declared as illegal and is accordingly impugned orders qua them are quashed and set aside. The respondents are under direction to carry out re-fixation of seniority in feeder cadre by following the catch up principle and then consider all the eligible persons including the applicant for promotion keeping in view the latest law on the issue in the case of M.Nagraj (supra) and as followed recently in the case of S.Paneerselvem (supra). Needful be done within a period of three months from the date of receipt of a certified copy of this order.”

[4] One of the plea now taken is that the Chandigarh Bench of the Tribunal had no territorial jurisdiction to entertain and decide the petition on merits as no part of the cause of action accrued within its territorial

jurisdiction.

[5] In our considered view such a plea cannot be permitted to be raised as concededly no such objection re: lack of jurisdiction was taken in the written statement or otherwise raised before the Tribunal. The petitioners unconditionally submitted to the jurisdiction of the Tribunal and took a chance of adjudication of the case on merits. The principle analogous to Section 21 of the Code of Civil Procedure would also be applicable with full force in such like situation. Consequently, the petitioners cannot be permitted to raise the objection of territorial jurisdiction at this juncture.

[6] Having held so, we have dwelled upon the merits of the case. In the light of the settled legal position in terms of the judgments of the Hon'ble Supreme Court as relied upon by the Tribunal, there can indeed be no second opinion except to hold that once the first respondent, in due course of time, has reached to the same stage to which the private respondents were promoted on out of turn basis against roster points, the ratio-decidenti of Ajit Singh -II and others vs State of Punjab, (1997) (7) SCC 209, comes to the rescue of first respondent and he is entitled to seek enforcement of the 'catch up principle' for restoration of his seniority and consequential promotion above the private respondents.

[7] It is stated by learned counsel for Union of India at this stage the legal issues referred to above are under re-consideration before the Hon'ble Supreme Court. There is no gain saying that dictum of the Apex Court will be equally binding on one and all including the first respondent.

With a view to avoid multiple litigation, it is directed that if the Hon'ble

Supreme Court in future takes a different view according to which the first

respondent would not be entitled to the relief as granted by the Tribunal, the authorities shall be entitled to reverse the effect of the Tribunal's decision after giving a show cause notice to him.

[8] With liberty to that extent, we do not find any merit in the writ petition. Dismissed.

(SURYA KANT)
JUDGE

January 17, 2017
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(SUDIP AHLUWALIA)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |