

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

**CWP No.27999 of 2017(CAT)
Date of Decision: 11.12.2017**

**Karre Ravi Kumar and others
Vs**

.....Petitioners

Union of India and others

.....Respondents

**CORAM: *HON'BLE MR. JUSTICE AJAY KUMAR MITTAL*
*HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Dr. K.S. Chauhan, Advocate
Ms. Jyoti Rani, Advocate
Mr. Ajit Kumar Ekka, Advocate
Mr. Chand Kiran, Advocate and
Mr. R.S.M. Kalky, Advocate
for the petitioners.

RAJ MOHAN SINGH, J.

[1]. Petitioners have preferred this civil writ petition under Articles 226/227 read with Articles 14 and 16 of the Constitution of India for issuance of writ in the nature of certiorari for quashing the interim orders dated 09.03.2017 and 07.11.2017 passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for short 'The Tribunal') in Original Application No.060/00254/2017 whereby operation of order of promotion dated 23.02.2017 in favour of the petitioners was stayed with a liberty to the respondents in original application to move an application for modification of the order.

[2]. An application filed by the petitioners for vacation of

order dated 09.03.2017 was dismissed by the Tribunal vide order dated 07.11.2017. Respondent No.6 Maheshinder Singh Dhindsa filed the aforesaid O.A No.254 of 2017 assailing the order dated 10.02.2017 whereby his representation was rejected and catch up rule was not followed while considering his case for promotion in the light of **M. Nagraj Vs. Union of India and others, 2006(8) SCC 212, Union of India Vs. Veerpal Chauhan, JT 1995(7) SC 231** and **B.K. Pavitra and others Vs. Union of India and others, (2017) 4 SCC 620.**

Private respondents in the original application i.e. present petitioners were promoted to the post of Assistant Commissioner of Customs and Central Excise.

[3]. Before filing the aforesaid Original Application No.254 of 2017 when the petitioners were granted reservation in promotion without following catch up rule, respondent No.6 Maheshinder Singh Dhindsa filed OA No.060/00028/2014 in which Department took the stand that the matter regarding catch up rule for the determination of seniority has already been referred to DOPT, therefore, the official respondents made a statement before the Tribunal that the Department will not hold any DPC and if they intend to hold DPC, they will inform the concerned quarter before such process. On the assurance of the Department, the Tribunal proceeded to pass an order dated

23.01.2017 by noticing the fact that the seniority list has already been amended vide order dated 21.10.2016 and the applicant in original application was assigned due seniority at the appropriate place by the Board and the matter with regard to catch up rule was under consideration with the Board and DOPT. The Tribunal granted liberty to respondent No.6 to approach the Tribunal in case the Department failed to follow catch up rule.

[4]. In the impugned order, the Tribunal has also noticed the fact that in utter disregard to the stand taken by the Department before the Tribunal in the earlier original application, the respondents proceeded to pass the order dated 10.02.2017 prejudicial to the rights of respondent No.6 by not following the catch up rule. Reference was made to the decision given by the Hon'ble Apex Court in **B.K. Pavitra and others case (supra)** and prayer was made for stay of operation of the promotion order. The Tribunal while passing the order dated 09.03.2017 took notice of the aforesaid facts and stayed the operation of the order dated 23.02.2017 till the next date of hearing, with a liberty to the respondents therein to apply for modification of the order.

[5]. Thereafter, MA/60/1385/2017 was filed for vacation of the order dated 09.03.2017 passed by the Tribunal. The Tribunal on the basis of facts and circumstances of the case

dismissed the same vide order dated 07.11.2017.

[6]. At this stage, it would not be proper to take cognizance of the *lis* on the basis of arguments raised by learned counsel for the petitioners. The matter is pending before the Tribunal and the Apex Court has referred this issue to Larger Bench in **The State of Tripura and others Vs. Jayanta Chakraborty and others**. It has been observed in the order of the Apex Court dated 14.11.2017 (Annexure P-11) that the prayer for grant of interim relief was allowed to be made before the Larger Bench.

[7]. In view of aforesaid facts and circumstances of the case, we do not find any ground to interfere in the interim orders dated 09.03.2017 and 07.11.2017 at this stage. Accordingly, we find no substance in this writ petition and the same is hereby dismissed. Needless to say, anything observed hereinabove shall not be taken to be an expression of opinion on the merits of the controversy.

(RAJ MOHAN SINGH)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

11.12. 2017

Prince

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No