

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 14.03.2018****CWP No.4533 of 2014**

Mohinder Lal

...Petitioner

Vs.

Uttar Haryana Bijli Vitran Nigam Limited & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Abhinav Sood, Advocate, for the petitioner.

Mr. Gaurav Mohunta, Advocate, for respondents No.1 to 4.

RAJIV NARAIN RAINA, J. (ORAL)

In view of the rule against extreme catch up and the judgment of the Supreme Court in Sube Singh Bahmani & others Vs. State of Haryana, (1999) 8 SCC 213 (CB), the petitioner, a general category candidate, can have no claim against Om Parkash – respondent No.5, who got accelerated promotion on reserved roster point as a member of Scheduled Castes on 30.03.1982 and thereafter further roster point promotion in January, 1987 as Junior Engineer, while the petitioner was promoted as Junior Engineer as per his seniority on 01.09.2009. By that time, there was a difference of two levels between the petitioner and Om Parkash creating an insuperable fiat accompli.

Nothing survives for decision in view of the judgment in Ajit Singh Janjua & others Vs. State of Punjab & others, JT 1999 (7) SC 153

and *Sube Singh Bahmani* and the issue pointedly discussed in a case involving the same respondent Nigam in CWP No.1894 of 2014 (O&M) titled 'Madan Lal Vs. Uttari Haryana Bijli Vitran Nigam Ltd. & others' and 36 connected cases decided on 13.03.2015 by Brother Ajay Tewari, J. observing as follows:

“After having taken through all the judgments and also after having gone through the judgment of this Court in *Rajbir Singh vs State of Haryana and others*, CWP No.25512 of 2012, decided on 14.11.2014, I have not found even a single fact situation where any Court has permitted a person to catch up with a junior who climbed up two steps ahead of him as in the present case. However, counsel for the petitioner has pointed out that in *V.B Nanda and others'* case (supra), a reserved category junior had climbed up two steps ahead of the petitioners therein, but the respondents had given him the benefit. In that case, the petitioners therein had only claimed that they should be granted pay from the date/s of their promotion and this Court had allowed that plea. However, there was no finding that the said petitioners were entitled to catch up on their erstwhile juniors. Counsel for the respondents have accepted that this was done but state that this was a mistake and, therefore, this mistake cannot give a right to the petitioners. Counsel for the petitioners has argued that having granted the relief to the petitioners in *V.B Nanda and others'* case (supra), the respondent-State cannot take a different view for the present petitioners as it would amount to discrimination.

In my opinion, this argument is clearly fallacious. It has been repeatedly held that a claim for discrimination cannot be raised against an illegal benefit. As mentioned above, once a general category candidate is not able to catch up with the reserved

category candidate on the next higher post, the principle of catching up would have no applicability.

Counsel for the petitioners has further argued that in some cases, promotions have been granted after the decision of the Hon'ble Supreme Court in M.Nagaraj and others v. Union of India and others, (2006) 8 SCC 212, without following the mandatory parameters laid down therein. Counsel for the respondents, on the other hand, state that to their knowledge, in none of these cases it has been done but they fairly state that if in any case any reserved category candidate has been granted promotion contrary to the decision in M.Nagaraj and others (supra), the concerned general category employee may make a representation in this regard within a period of two months from the date of receipt of a certified copy of this order, and the competent authority will decide the same by passing a speaking order thereon within a further period of three months. With this caveat, all these writ petitions are dismissed.”

In addition, the instant petition is also dismissed in terms of

Madan Lal's case.

14.03.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>