

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.39 of 2018

Date of Decision:-08.01.2018

Madan Lal Solanki.

.....Petitioner.

Versus

State of Punjab through its Additional Chief Secretary & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Sumeet Goel, Advocate for the Petitioner.

Mr. Puneet Gupta, Advocate for Caveator/respondent no.5.

JASWANT SINGH, J.(ORAL)

Petitioner belongs to the category of Scheduled Caste. He was promoted as a Deputy District Attorney on 19.01.2004 against the roster point reserved for the Scheduled Caste category. He was further promoted as a District Attorney against the reserved roster point on 20.07.2010 . He was further promoted as Joint Director Prosecution against reserved roster point on 27.04.2015, which post he continues to hold till today. It is a conceded position that the post of Deputy District Attorney, Joint Director Prosecution, Additional Director and Director Prosecution are governed by The Punjab Prosecution and Litigation (Group-A) Rules 2002 (for short the 2002 Rules).

The present petition is directed against the order dated

Attorney's have been recasted on 29.06.2017 and the impugned order of the same date (P-18) whereby the seniority list in the cadre of Joint Director (Prosecution) as on 19.06.2017 has been recasted and finalized. The effect of such recasting and finalization of the aforesaid seniority list in the two cadres is that Vijay Kumar Singla (respondent no.5), a general category candidate has been placed above the petitioner in the seniority list of both the above cadres.

Learned Counsel for the petitioner has argued that the stand of the State as reflected from the written statement filed in the previous litigation Annexure P-4 reveals that in the seniority list finalized as on 24.06.2011, the petitioner had been placed much above the respondents including Mr. Vijay Kumar Singla and, therefore, the recasting of the Seniority List now suffers from legal malafide.

On the other hand, learned Counsel for the Caveator/respondent no.5 has argued that some of the general category candidates were promoted from the Cadre of Deputy District Attorney's to the cadre of District Attorney's after the finalization of the previous Seniority list in the cadre of District Attorney in the year 2011 and, therefore, upon such subsequent promotions on their own turn fresh seniority in the promoted cadre of District Attorney's had to be finalized keeping in view the catch up Rule enunciated by the Hon'ble Supreme Court in **Ajit Singh Janjua-II Vs. State of Punjab** 1999 Vol-7 SCC 2009 , as incorporated in the Punjab Government Instructions dated 22.10.1999 supplemented on 10.10.2014. It is next urged that Vijay Kumar Singla was subsequently promoted as District Attorney on 30.07.2012 and on fulfillment of the promotion criteria as Joint Director on 01.01.2017 and accordingly he has been assigned his

due place in the seniority list at **P-17**.

After hearing learned Counsel for the Petitioner as well as Counsel for the Caveator/respondent no.5, this Court finds that the present petition is devoid of any merits. It is not in dispute that as per the settled law, the general category candidates on promotion are entitled to their placement in the promoted post above their juniors of their feeder cadre, who were promoted earlier to the promotional post by virtue of benefit of reserved roster point. There is also no doubt that the instructions dated 10.10.2014 providing for such a recourse does not suffer from any legal infirmity. It is also not in dispute that Vijay Kumar Singla was appointed as ADA on 1.06.1985 whereas the petitioner was appointed as ADA on 6.6.1985 and petitioner concededly was junior to Mr. Vijay Kumar Singla in the cadre of ADAs. No doubt the petitioner was promoted as Deputy District Attorney prior to Mr. Vijay Kumar Singla, General Category candidate against the reserved roster point, however, concededly in the final seniority list of Deputy District Attorney's circulated on 19.05.2012, Mr. Vijay Kumar Singla was placed above the Petitioner based on the catch up Rule. It is also evident that the petitioner had availed the benefit of accelerated seniority in the cadre of District Attorney and Joint Director and upon promotion of Sh. Vijay Kumar Singla, his seniority had to be restored in both the cadres above the petitioner based on the aforesaid catch up rule. Thus the plea raised on behalf of the Petitioner that in the seniority list circulated in the year 2011, he was placed above most of the general category candidates loses significance in the light of subsequent promotion of the general category candidate including Vijay Kumar Singla as per the promotion criteria and on their own turn based on the catch up rule. Thus

viewed, the arguments raised on behalf of the Petitioner are not tenable.

In view of the above, no ground for interference is made out and resultantlly, the present writ petition is hereby dismissed.

(JASWANT SINGH)
JUDGE

January 08, 2018
Vinay

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