

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

**CWP No.15411 of 2020 (O&M)
Date of Decision: 27.10.2020**

**Sukhpreet Singh Sidhu and others
.....Petitioners**

Vs

**Union of India and others
.....Respondents**

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

Present: Mr. D.S. Patwalia, Sr. Advocate with
Mr. Kannan Malik, Advocate
for the petitioners.

Mr. Satya Pal Jain, Addl. Solicitor General with
Mr. Namit Kumar, Advocate and
Mr. Alankrit Bhardwaj, Advocate
for respondent No.1/Union of India.

Ms. Alka Chatrath, Advocate
for respondent No.2/UPSC.

Ms. Anu Chatrath, Addl. A.G., Punjab
for respondents No.3 and 4.

Mr. Sanjeev Sharma, Sr. Advocate with
Mr. Shekhar Verma, Advocate
for respondents No.5, 6, 10, 12 and 15.

Mr. Kamaldeep Singh, Advocate
for respondent No.7.

Mr. Gurminder Singh, Sr. Advocate with
Ms. Harpirya Khaneka, Advocate
for respondent No.8.

RAJ MOHAN SINGH, J.

[1]. The case was taken up for hearing through video conferencing. Presence of Ms. Alka Chatrath, Advocate appearing on behalf of respondent No.2/UPSC could not be recorded in the previous order dated 14.10.2020 due to some oversight. This Court has acknowledged her presence for respondent No.2/UPSC throughout the proceedings of the case.

[2]. Petitioners have preferred this writ petition for the issuance of appropriate writ, order or direction especially in the nature of mandamus, directing respondents No.1 to 4 to place on record the Select Lists for the years 2018 and 2019 prepared for promotion of the members of Punjab Civil Services (Executive Branch) to Indian Administrative Service (Punjab Cadre) and also for quashing of the Select List to the extent that the names of respondents No.5 to 24 have been recommended by respondent No.4 for promotion despite the fact that respondents No.5 to 24 are ineligible for promotion to IAS Cadre for want of substantive appointment/service against Punjab Civil Service (Executive Branch) posts as required under the provisions of the Indian Administrative Service (Recruitment) Rules, 1954 and the Indian Administrative Service (Appointment by Promotion) Regulations, 1955. Petitioners have also prayed for declaring the services rendered by respondents No.5 to 24 in

Punjab Civil Services (Executive Branch) from their initial appointment to be *non est* for the purpose of promotion to IAS Cadre in view of the fact that their appointments were not against substantive vacant posts as they had been appointed in excess of total vacant posts as advertised in the year 1998 and they are beyond the cadre strength.

[3]. Notice of motion was issued on 25.09.2020 by passing the following order:-

“The case has been taken up for hearing through video-conferencing.

Learned senior counsel for the petitioners contends that 28 posts of PCS (Executive Branch) were advertised in the year 1998. Petitioners along with others were appointed in the year 1999. Services of the petitioners were terminated on account of the scam known as Ravinderpal Singh Sidhu's scam in Punjab Public Service Commission. In place of the petitioners, respondents No.5 to 24 were appointed by reconducting the examination in the year 2003. However, their appointments were subject to the decisions in the pending writ petitions in the High Court and SLPs in the Hon'ble Supreme Court. Litigation in respect of termination of the services of the petitioners and others went up to the Hon'ble Supreme Court and the same has been decided in favour of the petitioners. Petitioners have been re-instated in service. The appointments of respondents No.5 to 24 are in excess of number of advertised posts and therefore, they are beyond the cadre strength. Their service cannot be termed as substantive service for the purpose of promotion to the IAS Cadre. The

aforesaid respondents have no requisite experience of 8 years of substantive service in PCS (Executive Branch) and they cannot be recommended by the respondent -Committee for promotion to IAS Cadre.

Notice of motion for 8.10.2020.

Notice Re; stay as well.

At this stage, Mr.Satya Pal Jain, Additional Solicitor General, assisted by Mr.Namit Kumar, Advocate, accepts notice on behalf of respondent No.1.

Ms.Monica Chibbar, Sr.DAG, Punjab accepts notice on behalf of respondent No.3

Respondents No.2 and 4 be served through dasti process as well as through electronic mechanism.

Respondent Nos. 5 to 24 be served through the office of Chief Secretary, Department of Personnel, Punjab Civil Secretariat, Sector 1, Chandigarh.”

[4]. Thereafter vide order dated 08.10.2020 passed by this Court, it was ordered that process of promotions to the IAS Cadre may not be finalized till the next date of hearing.

[5]. Learned Senior counsel for the petitioners submitted that in February, 1998 an advertisement was issued by the Punjab Public Service Commission for recruitment against 28 vacancies in PCS (Executive Branch) and 63 vacancies in Allied Services. Petitioners and others were appointed in PCS (Executive Branch) in the year 1999. On 23.05.2002 services of the petitioners were dispensed with on account of the scam known as Ravinderpal Singh Sidhu's scam in Punjab Public

Service Commission, who was the then Chairman of the Commission. The allegations were that the Chairman and his associates had received bribes from several candidates to appoint them in Government service. The ostensible reason for dispensing with the services of the petitioners was an investigation which was being carried against the then Chairman. The entire selection of PCS (Executive Branch) and Allied Services was cancelled vide a general order dated 24.08.2002.

[6]. Learned Senior counsel for the petitioners further submitted that aggrieved by the order of termination, the petitioners and others filed number of writ petitions before this Court challenging the order of termination dated 23.05.2002 on number of grounds. All the petitions were clubbed together and were heard by the Full Bench of this Court in which lead petition was CWP No.8421 of 2002 titled '*Amarbir Singh vs. State of Punjab and others*'. The petitions were contested by the respondent-State with a specific stand that most of the examinations conducted by the Punjab Public Service Commission during the tenure of the then Chairman i.e. Ravinderpal Singh Sidhu were tainted as the Vigilance Bureau, Punjab had found evidence regarding acceptance of huge bribe by Ravinderpal Singh Sidhu and his associates from the

candidates for selecting and appointing them in PCS (Executive Branch)/Allied Services. On the basis of inquiry/investigation by the Vigilance Bureau, the State Government had decided to terminate the services of all such candidates, who had been appointed during the tenure of Ravinderpal Singh Sidhu. During pendency of the aforesaid writ petitions, the respondent-State issued a letter on 04.02.2003 vide which the State decided to re-conduct the examinations for the vacancies in PCS (Executive Branch) and other Allied Services which had occurred in the year 1998 and fell under the direct recruitment quota. The aforesaid petition i.e. CWP No.8421 of 2002 and other connected matters were dismissed by the High Court vide order dated 07.07.2003, while selection process of Re-conduct Examination 2003 was still under progress.

[7]. Learned Senior counsel for the petitioners further submitted that re-examination was conducted for 91 posts in total, out of which 28 vacancies belonged to the PCS (Executive Branch) and 63 vacancies belonged to the Allied Services. No fresh vacancies had been added by the respondents. All and only those candidates, who had appeared earlier in PCS (Executive Branch) and Allied Services Preliminary Exam held on 29.03.1998 and found eligible therein were eligible to be admitted to the exam. No candidate whose candidature was

rejected by the commission on any ground or was found ineligible at any stage or was absent in the preliminary examination, was held be eligible to be admitted in the examination. Petitioners also participated in the Re-conduct Examination 2003. Petitioners No.3 and 5 were appointed in PCS Allied Services. Respondents No.5 to 24 came to be appointed against PCS (Executive Branch) posts along with some of the candidates, who had earlier been appointed in the examination of 1999, but dismissed from the services in the year 2002. Respondents No.5 to 24 were appointed on the same posts on which petitioners were earlier appointed. The appointment letters issued to respondents No.5 to 24 had the recital in the form of Para No.9 that their appointments shall be subject to the decision of the Hon'ble Supreme Court in the appeal preferred against the judgment dated 07.07.2003 passed in CWP No.8421 of 2002 and other connected matters by the Full Bench of this Court.

[8]. Learned Senior counsel for the petitioners by referring to the para No.19 of the aforesaid judgment dated 07.07.2003 passed by the Full Bench of this Court further submitted that an assurance was given by the State of Punjab to the Court that all the candidates, who participated in the earlier selections which have been declared *null and void* will be allowed to take part in

the selection process to be held afresh. No matter some of them may have crossed the age limit. The candidates, who get selected again to the same service will be given their seniority with retrospective effect as if, they had joined the service on their earlier appointment/selection. Aggrieved against the order dated 07.07.2003 passed by the Full Bench of this Court, number of petitions were filed in the Hon'ble Apex Court in which lead petition was Civil Appeal No. 3411-3421 of 2005 titled '*Inderpreet Singh Kahlon and Ors. vs. State of Punjab and others.*'

[9]. The Hon'ble Apex Court vide order dated 03.05.2006 allowed the Civil Appeals to the extent of setting aside the orders of the State Government as well as the judgment dated 07.07.2003 passed by the Full Bench of this Court. However, the matter was remitted back to this Court to re-consider the entire matter afresh. It was observed that the appointments of the persons appointed in re-conduct examination would be subject to the outcome of the decision of the case. At the time of deciding the appeals/objection, the Hon'ble Apex Court was told that some new appointments have been made and the effect whereof, would certainly be the subject to the decision of the case. The Hon'ble Apex Court did not intend to set aside the appointments and did not intend to disturb the *status quo*. The

matter was remitted to the High Court for consideration afresh with a view to segregate between the tainted and non-tainted by constituting two independent scrutiny committees for executive officers and for judicial officers.

[10]. Learned Senior counsel for the petitioners further submitted that the matter came to be re-considered by this Court. Vide order dated 31.05.2013, the Full Bench of this Court dismissed the writ petitions after re-hearing the entire matter and accepting the report which was submitted by the Committees formed in pursuance of the order dated 03.05.2006 passed by the Hon'ble Apex Court. After dismissal of the petitions, petitioners along with other similarly situated candidates again approached the Hon'ble Apex Court, challenging the order dated 31.05.2013 passed by the Full Bench of this Court. All the petitions were clubbed together with the lead petition being Civil Appeal No.5589-5605 of 2014 titled '*Joginder Pal & Ors. vs. State of Punjab & Ors.*' The Hon'ble Apex Court vide order dated 23.05.2014 partly accepted the Civil Appeals of non-tainted candidates. Paras No.33 and 34 of the judgment read as under:-

“33. There is yet another crucial development which needs to be mentioned here. In the first instance, it is the State which had taken a decision to cancel the entire selection process. However, after the remand order passed

in Inderpreet Singh Kahlon's case (supra), in the exercise done by the Committee screening out the tainted from non-tainted candidates, the State came forward and showed its willingness to take back these candidates who were non-tainted and were selected on the basis of their merit. A specific affidavit to this effect was filed in the High Court. To the same effect the affidavit has been filed before us also. We are of the opinion that once those untainted officers, who were appointed under the same environment, have been allowed to continue, there is no reason to deprive this benefit of such recourse to the PCS (Executive Branch) and Allied Services. We may note that the High Court has recorded in the impugned judgment that 66% cases were found to be of the persons given appointment who were tainted, which influenced the entire selection process. However, during the course of arguments, it was placed before us that the aforesaid percentage is worked out by taking the cases of direct recruits and nominated candidates together. If the figures are separately taken, out of 93 direct recruits, 76 have joined and only 10 are found to be tainted. In fact, the percentage of such tainted candidates in nominated category was much higher, i.e. 80%. It was, thus, argued that the cases of direct recruits cannot be taken along with those in nominated category, who influenced the decision in their matter as well. This is also a supportive and important fact which goes in favour of these appellants viz. the non-tainted direct recruits.

34. *The aforesaid discursive exercise prompt us to set aside the judgment of the High Court in respect of these persons with the direction that the appellants be allowed to join the duties forthwith. It is, however, made clear that the intervening period during which they remained out of*

service shall not count for seniority or any other benefit. However, these persons shall be given the benefit of service rendered by them earlier viz. from September 1999 till May 22, 2002, when they actually worked, for the purpose of seniority and future promotion, etc. These appeals are partly allowed to the aforesaid extent.

There shall, however, be no order as to costs”

[11]. Evidently, the benefit of earlier service rendered by such candidates from September 1999 to May 22, 2002 was given to them for the purpose of seniority and future promotions etc. In pursuance of the aforesaid order dated 23.05.2014, the petitioners were allowed to join their duties by the respondent-State vide order dated 12.06.2014. Respondent-State also granted them benefit of past service as directed by the Hon'ble Apex Court. Deemed date of appointment was given to the petitioners w.e.f. 2011. The subject matter of one such order dated 30.03.2015 was in the context of considering the period of break as “*dies non*” period of the officers and the probation was deemed to be cleared and counting of period of service from 1999 to 2002 was to be considered towards seniority and future promotions. It was so ordered because the officers whose names had been mentioned in the judgment dated 23.05.2014 had a satisfactory performance during the period 1999 to 2002 and they had passed all the Departmental examinations.

[12]. Learned Senior counsel for the petitioners further

submitted that respondents No.5 to 24 were appointed and selected against the same posts in Re-conduct Examination 2003 on which the petitioners were initially appointed in the year 1999. Respondents No.5 to 24 were appointed against the posts after the services of the petitioners had been dispensed with in the year 2002. The Hon'ble Apex Court vide judgment dated 03.05.2006 quashed the order of termination of the petitioners as well as the orders issued by the respondent-State for cancellation of 1999 selection and further after considering the fact, vide judgment dated 23.05.2014, the Hon'ble Apex Court was pleased to allow the petitioners to join the services by granting them benefit of previous service to the extent as indicated above, therefore, the appointments of respondents No.5 to 24 to the PCS (Executive Branch) were in excess of 28 advertised posts and were beyond the cadre strength because the 1999 Selection had been revived by the Hon'ble Apex Court by putting the petitioners and others back in service on the said 28 posts. The respondent-State issued a seniority list of PCS (Executive Branch) dated 14.06.2016 fixing the seniority of respondents No.5 to 24 at Sr.No.259 to 282 on the basis of length of service. The officers, who had initially been appointed in the year 1999 and re-selected in 2003 examination were placed in the seniority list on the basis of their merit in the Re-conduct Examination 2003 after granting them deemed date of

appointment.

[13]. Learned Senior counsel for the petitioners further laid emphasis on the Indian Administrative Service (Recruitment) Rules, 1954 (for short 'the 1954 Rules') and the Indian Administrative Service (Appointment by Promotion) Regulations, 1955. As per Rule 4(b) read with Rule 8 of the 1954 Rules, the method of recruitment of the service has been defined to mean that a substantive member of State Civil Service can be promoted to Indian Administrative Service by the Central Government on the recommendation of the State Government and in consultation with the Union Public Service Commission. The Central Government promulgated the 1955 Regulations known as the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 (for short 'the 1955 Regulations'). These regulations are intended to give effect to the provision of 1954 Rules. Regulation 3 and 5 of 1955 Regulations provide that each State shall have a Committee that would prepare the list of such members of the State Civil Service, who are suitable for promotion to the Indian Administrative Service. Such list would include the names of those members of the State service, who have 8 years of continuous substantive service in cadre.

[14]. By referring to the aforesaid Rules and Regulations, learned Senior counsel for the petitioners further submitted that

the aforesaid Rules still hold the field and original 28 vacancies can be termed as substantive vacancies. Experience in officiating capacity cannot be termed as an experience on substantive posts. The seniority alone has no meaning for further promotion to IAS Cadre as the appointments of respondents No.5 to 24 cannot be termed to be the appointments on substantive vacancies. Neither the petitioners, nor the respondents No.5 to 24 are eligible as on date to represent the IAS Cadre and in such contingency, the respondents ought to have carried forward the vacancies to a future date so as to promote the eligible candidates.

[15]. Per contra, learned Senior counsel duly assisted by their associate counsel(s) appearing on behalf of the private respondents submitted that as per Rules, the members of State Civil Services whose names are being recommended for promotion to IAS Cadre are required to have 8 years of continuous substantive service as on 1st January of the year for which the select list has been prepared. The petitioners were not eligible under the 2018 and 2019 select lists. Concededly, the petitioners have pleaded their status in para No.17 of the writ petition, wherein they have admitted that they are not eligible for consideration for promotion to IAS (Punjab Cadre). The petitioners were given deemed date of joining since

October/November 2011, whereas they were issued appointment letters in the year 2014. They had the credit of 6 years of continuous service and are not eligible for consideration for promotion to IAS (Punjab Cadre). Petitioners have no continuous service of 8 years to their credit as on 01.01.2018 and 01.01.2019. They would be eligible only after 8 years of continuous service.

[16]. Learned Senior counsel/Advocates for the private respondents further submitted that the petitioners were never re-instated in service, rather they were allowed to join the services without giving any benefit of the period during which they remained out of service. The benefit was given only for the period during which they remained on roll before dispensation of their services. No *status quo ante* was restored to the petitioners, therefore, there was no re-instatement qua them, rather they were allowed to join the service on the basis of judgment of the Hon'ble Apex Court. The Appeals filed by them were partly allowed by the Hon'ble Apex Court, being in the category of non-tainted candidates had been after considering the fact that candidates had been appointed in Re-Conduct examination 2003 in the cadre of Punjab Civil Services (Executive Branch) in the year 2004.

[17]. Learned Senior counsel/Advocates for the private

respondents further submitted that the appointments of respondents No.5 to 24 were not in excess of cadre strength. Initially the entire selection process was cancelled and services of all the appointees had been terminated in the year 2002. The appointments of respondents No.5 to 24 were never assailed by the petitioners, nor were set aside by any Court. The cancellation process was infact upheld by the Court and the intention of the State Government to re-conduct the selection process was also upheld. Consequently, re-conduct examination took place in the year 2003. In the process of re-conduct examination, all the petitioners participated. Answering respondents along with others participated in the Re-conduct Examination 2003 against 91 vacant advertised posts. On being successful in the process, they were issued appointment letters in the year 2004. Answering respondents have been working continuously against substantive posts in PCS Cadre and have successfully completed the period of probation. They have been accorded benefit under the Assured Career Progression Scheme being the appointees against substantive regular posts. The appointment of the answering respondents were never challenged by anyone. Answering respondents have already received service benefit after completion of 4, 9 and 14 years of service.

[18]. Learned Senior counsel/Advocates for the private respondents further submitted that the petitioners were issued appointment letters only in the year 2014 with deemed date of joining as October/November 2011. The appointments of the answering respondents were made in the year 2004. Even after appointment of the petitioners in the year 2014, they did not challenge the appointments of answering respondents which were made in the year 2004. Answering respondents have been granted benefit of ACP Scheme and the same is also not under challenge. Petitioners are drawing much lower pay scale than the answering respondents since the date of their joining in the year 2014 with deemed date of joining as October/November 2011. Petitioners never objected to the aforesaid drawl of pay scale on the lower side. There was a limited challenge before the Hon'ble Apex Court to the cancellation process of 91 posts advertised in the year 1998. There was no challenge to Re-conduct Examination 2003 which was carried in the year 2004. After about 16 years, the benefit accrued to the answering respondents cannot be denied on any misconceived notions of the petitioners. Petitioners were given only limited relief by the Hon'ble Apex Court i.e. benefit of past service of about 2½ years while computing their date of appointments from 2014 to 2011. Petitioners were allowed to join on equitable grounds and their appointments were only after the appointments of the

answering respondents in the year 2004. The factum of appointments of answering respondents was noticed by the Hon'ble Apex Court in para No.57 of its judgment dated 03.05.2006 titled '*Inderpreet Singh Kahlon and Ors. vs. State of Punjab and ors.*'

[19]. Learned Senior counsel/Advocates for the private respondents further submitted that the petitioners at this stage cannot be allowed to agitate the controversy, particularly in the absence of any such plea being raised before the Hon'ble Apex Court on earlier two occasions. Even the petitioners have not challenged the seniority list of PCS Cadre that was finalized and circulated on 14.06.2016. The selection process against select list comprising of panel of 21 candidates including most of the private respondents for the year 2017 already stood completed and 7 candidates have already been promoted to Indian Administrative Service (Punjab Cadre) in the DPC held on 27.12.2018. Petitioners did not object to the aforesaid selection process in any manner and the aforesaid fact has been concealed in the writ petition. Some of the appointees from the selection process of Re-conduct Examination, 2003 have already joined IAS (Punjab Cadre) in the Select List of 2017. Some of the persons, who are part of Select List of 2018 and 2019 have not been impleaded as party respondents in the

present case. The challenge has been made against the answering respondents and that is intended to declare their appointments in service from the year 2004 onwards to be *non est*. The petitioners have not come to the Court with clean hands. Concealment of the aforesaid relevant facts would disentitle them even for hearing.

[20]. Learned Senior counsel/Advocates for the private respondents further submitted that in a similar case, an attempt was made to seek stay of selection process for filling up vacant posts of IAS (Punjab Cadre). Interim relief was declined to the petitioner in the said case vide order dated 30.09.2020 passed in CWP No.11110 of 2017 titled '*Rajdeep Singh Brar vs. State of Punjab and others.*' Even SLP No.365 of 2019 titled '*Gurjit Singh & Ors. vs. The State of Punjab & Anr.*' was filed which was got dismissed as withdrawn vide order dated 19.07.2019 without seeking any permission to file fresh petition on the same cause of action.

[21]. Learned Senior counsel/Advocates for the private respondents further submitted that names of candidates Amit Talwar and Hargunjit Kaur have already been approved to IAS Cadre in the meeting of Selection Committee dated 22.12.2018. No reference has been made to the aforesaid recommendation and approval. The aforesaid candidates were re-selectees of

the Re-conduct Examination 2003. Private respondents were found to be within the zone of consideration by the Selection Committee on the basis of over all relative assessment.

[22]. Learned counsel/Advocates appearing on behalf of respondents No.1 to 4 have also opposed the claim of the petitioners on the ground that they are not eligible for being considered for promotion to IAS Cadre for want of requisite experience as on date. The petitioners were appointed only in the year 2014 and by giving benefit of past service of about 2½ years, they were given deemed date of appointments in October/November 2011. They were never reinstated in the service, rather they were allowed to join the posts only in the year 2014. No benefit of continuity of service was given to them except to give benefit of 2½ years for the purpose of seniority and further promotion on due date. Admittedly, the petitioners have pleaded that they are not eligible to promotion to IAS (Punjab Cadre) as on date and their prayer is only for carrying forward the promotions to some future date so as to promote eligible candidates.

[23]. I have considered the submissions made by learned counsel for the parties and have perused the material on record.

[24]. It has been found that the petitioners were allowed to join the posts only in the year 2014 without continuity in service.

Benefit of only 2½ years of past service was accorded to them in view of their non-tainted status. Petitioners never sought to get any clarification *qua* their relief. Petitioners having participated in the Re-conduct Examination 2003, cannot be allowed to question the appointment of private respondents that they are not appointed on substantive vacancies. After termination of the petitioners, the posts became vacant and were filled by Re-conduct Examination 2003 in which petitioners also participated. Some of the candidates of original selection were appointed in the Re-conduct Examination 2003 and have been promoted further to IAS (Punjab Cadre). Names of Amit Talwar and Hargunjit Kaur have been approved for promotion to IAS (Punjab Cadre) in the meeting dated 27.12.2018. They are from the re-selectees in Re-conduct Examination 2003. Benefit of past service was given to the petitioners only for the period of 2½ years. Consequently, they were given appointment letters in the year 2014. Petitioners remained contended with their letter of appointments in the year 2014 with deemed date of appointment in the year October/November 2011. The assurance, if any, given by the State in the judgment dated 07.07.2003 never culminated in any logical end as the writ petitions were dismissed. The issue was never raked up by the petitioners before the Hon'ble Apex Court thereafter. The petitioners remained contended with the benefits of past service

to the extent of 2½ years only.

[25]. In view of aforesaid, it can be seen that the petitioners were not re-instated in the service with all past benefits like continuity of service and seniority positions. Re-instatement in service has a definite connotation. No *status quo ante* was restored in favour of the petitioners, therefore, it cannot be held that there was a re-instatement in case of the petitioners. Private respondents were appointed in the Cadre of Punjab Civil Services (Executive Branch) for the year 2004. Their appointments were never assailed by the petitioners in any Forum. The seniority lists of the private respondents was circulated in the year 2016 to which no objections were ever filed by the petitioners against the seniority positions of private respondents.

[26]. Initially the entire selection process initiated in pursuance of advertisement for 91 posts of PCS (Executive Branch) and Allied Services in the year 1998 was cancelled. The services of all the appointees were terminated in the year 2002. The process of cancellation was infact upheld right upto the Hon'ble Apex Court. Only benefit was given to non-tainted candidates for joining with limited benefit of 2½ years of past service. In view of aforesaid position, the appointments of the answering respondents cannot be held to be beyond cadre

strength or beyond the advertised posts. Even otherwise, the selection of the private respondents has not been assailed by the petitioners, nor the seniority position as determined in the year 2016. Even petitioners had participated in the Re-conduct Examination 2003. Some of them even became successful for further nomination to IAS (Punjab Cadre).

[27]. The private respondents being the appointees against substantive regular positions have been given further benefits after 4, 9 and 14 years of substantive service. The benefits given to the answering respondents have not been assailed by the petitioners. The subsequent grant of benefits under ACP Scheme has never been objected to by the petitioners. Even in case of **Joginder Pal & Ors'** case (*supra*) limited challenge was before the Hon'ble Apex Court was to the cancellation process of 91 posts advertised in the year 1998, but there was no challenge to Re-conduct Examination 2003. The factum of selection of the private respondents was very much in the knowledge of the Hon'ble Apex Court and the same was never set aside even by necessary implication. The selection having been made about 16 years ago pursuant to Re-conduct Examination 2003 cannot be made nugatory by withholding further promotion of eligible candidates to IAS (Punjab Cadre).

[28]. The Rules quoted by the petitioners are applicable only

on substantive vacancies. Admittedly, the petitioners have no requisite experience under the Rules. The appointments of answering respondents in the year 2004 cannot be termed to be beyond cadre strength or not against substantive vacancies. On the basis of the answering respondents being appointed against substantive vacancies, they have been granted further service benefits after completion of 4, 9 and 14 years of service under ACP Scheme. Petitioners have not disclosed the factum of selection process against Select List comprising of 21 candidates including most of the private respondents in the year 2017. The said process stood completed and seven candidates have already promoted to IAS (Punjab Cadre) in the DPC held on 27.12.2018.

[29]. For the reasons recorded hereinabove, this petition is found to be devoid of merits and is accordingly dismissed.

October 27, 2020

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No