

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

CWP No.10431 of 2017(O&M)

Date of Decision:-05.02.2020

Jai Karan & Ors.

.....Petitioners.

Versus

Union of India & Ors.

.....Respondents.

AND

CWP No.10434 of 2017(O&M)

Sanjeev Kumar & Ors.

.....Petitioners.

Versus

Union of India & Ors.

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

**Present:- Mr. Barjesh Mittal, Advocate for the petitioner(s)
(in both the Petitions).**

**Mr. Satya Pal Jain, Additional Solicitor General, with
Mr. Namit Kumar, Advocate
for respondent Nos. 1 and 2 (in both the cases).**

**Mr. Pankaj Jain, Senior Standing counsel
U.T. Chandigarh with Mr. Jaivir S. Chandel,
Addl. Government Pleader U.T. Chandigarh
for respondent Nos. 3 to 6 (in both the cases).**

**Mr. Sanjeev Sharma, Senior Advocate with
Ms. Aarushi Jain, Advocate for
contesting respondent Nos. 7 to 12 (in CWP-10431-2017) and**

for respondent Nos.7 to 10 (in CWP-10434-2017).

SANT PARKASH, J.

This order shall dispose of above-mentioned two writ petitions involving similar facts and issue, which needs determination is identical. For facility of reference, facts are being culled out from CWP No.10434 of 2017.

The present writ petition is directed against the common order dated 20.03.2017 (P-7) passed by the learned Central Administrative Tribunal (for short 'The Tribunal'), whereby the Original Application filed by respondent Nos.7 to 10 (belonging to General Category) has been allowed and the promotion orders of petitioners (belonging to Scheduled Caste Category) have been quashed, directing the official respondents to finalise the tentative seniority list dated 09.08.2010 by following the principle of "Catch-up".

Brief facts of the case are that initially, respondent Nos. 7 to 10 herein (applicants in OA) joined the Union Territory Secretariat, Chandigarh Administration as Clerks and thereafter, they were re-designated as Junior Assistants. The names of respondent Nos. 7 to 10 and the petitioners (belonging to reserved category) were placed as per seniority/gradation list in respect of Group A, B, C and D employees vide tentative list dated 09.08.2010 (A-2). Petitioner Nos.2 and 3 were not re-designated as Junior Assistants. It is a matter of record that petitioners herein (private respondent Nos.8 to 10 in OA) belong to the reserved category of Scheduled Castes, and they had joined as Clerks in the Union

Territory, Chandigarh against the vacancies reserved for reserve category. Nine vacancies came to be filled up in the cadre of Senior Assistants from amongst the Junior Assistants/Clerks with five years' service as Clerks. Private Respondent Nos.7 to 10 herein were also entitled to be considered against the vacancies of Senior Assistants. Petitioners, who belong to Scheduled Castes Category, were promoted as Senior Assistants by availing the benefit of reservation vide order dated 29.09.2015 (A-1 in the OA), including petitioner Nos.2 and 3, who were Clerks, against the reserved points of Scheduled Caste category, however, concededly juniors to private respondent Nos.7 to 10 herein in the cadre of Clerks/Junior Assistants.

Dissatisfied with the order dated 29.09.2015, respondent Nos.7 to 10 preferred the Original Application. The learned Tribunal considered the matter in detail and allowed the Original Application holding that mandate of the directions given by the Hon'ble Supreme Court in **M Nagaraj and others Vs Union of India and others, (2006) 8 SCC 212** was not complied with, therefore, benefit of reservation to the prejudice of senior Clerks/Junior Assistants belonging to General Category could not be extended in promotion to the cadre of Senior Assistants. Hence, these writ petitions.

Counsel for the parties heard.

Hon'ble the Supreme Court in **M. Nagaraj and ors Vs. Union of India and ors. (2006) 8 SCC 212** has observed that the State is not bound to make reservation for SC/ST in matter of promotions and if they wish to exercise their discretion, the State has to collect quantifiable data showing backwardness of the class and inadequacy of representation of that class in public employment in addition to compliance of Article 335. Thus,

the requirement of collecting quantifiable data with regard to backwardness, inadequacy of representation and keeping in mind the overall efficiency of the administration as a pre-condition for making a provision for reservation in promotion with consequential seniority for the Schedules Castes and Scheduled Tribes. A recent judgment passed by Constitution Bench of the Hon'ble Supreme Court in **Jarnail Singh and others Vs. Lachhmi Narain Gupta and others AIR** has upheld the decision rendered in the case of **M. Nagaraj's** (supra) to the extent of the requirements that the State had to collect quantifiable data showing adequate representation of the Scheduled Castes and the Scheduled Tribes in the service and over all administrative efficiency.

Keeping in view the peculiar facts and circumstances of the case, we are of the considered opinion that the judgment of learned Tribunal does not suffer from any patent illegality or perversity. The findings of the Tribunal are well reasoned and in consonance with the various decisions of Hon'ble the Supreme Court. No question of law has been found involved in the cases in hand. The ratio of the judgment rendered in the case of **M.Nagraj** (supra) showing adequate representation of the Scheduled Castes and the Scheduled Tribes in the service and over all administrative efficiency before extending the benefit of reservation in promotions has been upheld by the later Constitution Bench in the case of **Jarnail Singh** (supra). Admittedly no such exercise was undertaken before granting benefit of reservation in promotion to the rank of Senior Assistants to the petitioners, thereby prejudicing the better claim of the seniors like the private respondent nos.7 to 10 belonging to the General Category in the rank of Clerks/Junior Assistants. It is also conceded that the benefit of

Catch up Rule in fixing seniority to a candidate belonging to the General Category by placing him above the Scheduled Caste Category Candidates having been promoted earlier by availing the benefit of reservation, on subsequent promotion of the general category employee is well accepted in service jurisprudence. No case for interference has been made out.

In view of the above discussion, both these writ petitions are **dismissed**. Pending application(s), if any, shall also stand disposed of, in terms thereof.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

February 05, 2020
Vinay

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