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

CWP NO. 24641 OF 2014

DATE OF DECISION: 06.12.2022

Raj Kaur

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Arvind Galav, Advocate,
For the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of certiorari to quash impugned order dated 24.05.2013 (Annexure P-9), vide which private respondents were promoted from the post of Nursing Sister to the post of Matron in the pay scale of Rs.9300-34,800/- + GP Rs.5450/- without recasting the seniority in view of law laid down by Supreme Court in the case of “**Ajit Singh Janjua and others v. State of Punjab and others**” reported in **1994 (4) RSJ 211 SC**. Further prayer was made to quash the order dated 05.08.2014 (Annexure P-13) whereby claim of the petitioner has been rejected.

2. The narrow controversy involved in the case is summed up by my learned brother Rameshwar Singh Malik, J. (as he then was earlier seized of the matter) vide order dated 17.12.2014 which is reproduced herein below:

“Learned counsel for the petitioner places reliance on a judgment dated 14.11.2014 passed by this Court in CWP No. 25512 of 2012 (Rajbir Singh v. State of Haryana and others), to contend, inter alia, that once the reservation policy of 2006 had been set aside by this Court in CWP No.17280 of 2011 (Prem Kumar Verma and others v. State of Haryana and others) decided on 07.08.2012 and the later reservation policy dated 28.02.2013 was also set aside by this Court in Rajbir Singh’s case (supra), the respondent authorities were duly bound to re-cast the seniority before passing any promotion order. However, in the present case, this exercise has not been carried out by the respondent authorities.

Notice of motion for 09.03.2015.”

3. Subsequently the matter was heard by another co-ordinate Bench headed by Rajiv Narain Raina, J. (as he then was in this Court) and following order dated 11.02.2019 was passed:

“State to file an additional affidavit explaining inter se seniority between Sunita Rani, a direct recruit in reserved category of Scheduled Caste who joined service on 09.07.1986 and the petitioner, an ad hoc appointee joining on 27.06.1985 and subsequently regularized in service as Staff Nurse on the same day i.e. 09.07.1986 when Sunita Rani was appointed. Thus, in this eventuality what does the Rule of seniority say.

The additional affidavit would also explain as to how in the first seniority list the name of the petitioner was shown higher than Sunita Rani. The affidavit be filed within three weeks.

List on 08.03.2019.”

4. *Apropos*, affidavit dated 26.07.2019 has been filed wherein following unequivocal and candid stand has been taken:-

4. *That admittedly, petitioner is senior to the private respondents, who belong to reserved category candidates, in the cadre of Staff Nurse. Hon’ble Supreme Court in Ajit Singh Janjua v. State of Punjab, 1999 (4) RSJ 211 SC, lays down the principle of catching up if the reserved category candidate who is junior in the feeder cadre is promoted to a higher post because of the benefit granted to such person of reservation but on promotion of a general category candidates to said cadre, the person, who was senior in the feeder cadres shall be treated as senior in the promotional*

cadre. As such, in view of principle laid down in case Ajit Singh Janjua case, accelerated promotion was allowed, but not accelerated seniority. Therefore, petitioner is also senior to Sunita Rani SC candidate (respondent No.4) in the cadre of Nursing Sister.”

5. Having perused the same, I find that the same is within four corners of law as laid down by Supreme Court in *Ajit Singh Janjua’s case (supra)*. Official respondents are fully conscious of how to proceed with, once a reserved category candidate has been promoted above the general category candidate, in order to provide accelerated promotion for giving benefit of belonging to Scheduled Caste category. It transpires that though the deposition has been made in accordance with law but the necessary administrative exercise of the recasting the seniority list for promotion has not been carried out till date.

6. In the return filed, it appears that the exercise of re-casting the seniority list was not carried out owing to the petitioner lacking seven years of experience, as has been more specifically stated in para 5 of the affidavit which, for ready reference, is reproduced herein below:

“5. That petitioner has also prayed for quashing of Speaking order dated 05.08.2014 (Annexure P13) wherein she was declined of promotion for post of Matron. It is pertinent to mention that the Haryana Health Department Nursing Personnel and Lady House Keepers (Group C) Services Rules, 1998 are the rules governing the service conditions for posts of Staff Nurse, Sister Tutor, Matron (involved in present writ petition) along with other promotional posts. Appendix B of said Rules provides for eligibility conditions in case of promotion to post of Matron, including 7 years of experience as Nursing Sister while the petitioner was promoted to the post of Nursing Sister w.e.f.01.06.2012 vide orders dated 14.05.2012. Therefore, she was not entitled for promotion being in-eligible for non-fulfilling the requisite condition of seven years’ experience to the post.”

6. In view of the aforesaid, the writ petition is disposed of with an expectation that since the respondents are fully conscious of what exercise has to be carried out, as has been deposed herein above in the

affidavit, needful will be done as expeditiously as possible but not later than six months from today.

DECEMBER 06, 2022
Shalini/vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No