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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: July 14, 2022*

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+ W.P.(C) 5641/2019

SHASHI PAL Petitioner

Through: Ms. Padma Kumar S., Advocate

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. D.S. Mehandru, CGSC

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+ W.P.(C) 8114/2019

TEJ BAHADUR Petitioner

Through: Ms. Padma Kumar S., Advocate

versus

UNION OF INDIA AND ORS. Respondents

Through: Ms. Bharathi Raju, Sr. Panel Counsel
for R-1 & 2

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (oral)

1. The issue(s) raised in these petitions and the relief(s) sought are similar, therefore, these petitions were heard together and are being disposed



of by this common order, treating W.P.(C) 5641/2019 as lead matter.

2. Vide the present petition, the petitioner seeks quashing of the order dated 19.03.2019, after calling for the records of the selection process of SI (Radiographer) and Order dated 21.02.2019 to the extent it promoted the junior of the petitioner i.e respondent No.3; directions to respondents for consideration of the petitioner to the post of SI (Radiographer) and if he is found fit then grant all the consequential benefits from the date the junior was allowed.

3. Since filing of the present petitions, a lot of water has flown. Most importantly, pursuant to judgment dated 28.02.2022 passed by the Hon'ble Supreme Court of India in case of ***Jarnail Singh and Ors. v. Lachhmi Narain Gupta and Ors.: 2022 SCC OnLine SC 96*** and other connected matters, Department of Personnel and Training has issued an Office Memorandum dated 12.04.2022. The relevant portion of said Office Memorandum is as under:

“2. In the judgement dated 28.1.2022, the Supreme Court has set out the conditions that are to be satisfied by the Government for the purpose of implementing the policy of reservation in promotions. These conditions are :

- (i) Collection of quantifiable data regarding inadequacy of representation of Scheduled Castes and Scheduled Tribes;*
- (ii) Application of this data to each cadre separately; and*
- (iii) If a roster exists, the unit for operation of the roster would be the cadre for which the quantifiable data would have to be collected and applied in regard to the filling up of the vacancies in the roster.*

This judgement currently holds the field.

3. All the Ministries/Departments are required to ensure



that the above conditions are complied with before implementing the policy of reservation in promotions and carrying out any promotions based thereon.

4. For this purpose, all Ministries/Departments are also required to ensure the following:

(a) In terms of DoPT OM No.43011/153/2010-Estt (Res.) dated 4.1.2013, the Liaison Officer shall ensure that the reservation rosters are strictly maintained as per the instructions/guidelines, laid down in DoPT OM No.36012/2/96-Estt (Res.), dated 2.7.1997.

(b) In order to ensure maintenance of efficiency of administration, the DPC shall carefully assess the suitability of the officers, being considered for promotion.

(c) The Appointing Authority shall issue the appointment/promotion orders only after satisfying itself that the conditions mentioned in paragraph 2 and sub-para (a) & (b) of this paragraph have been fully complied with.

*5. Since the **Jarnail Singh** batch of cases is pending in the Supreme Court of India, any promotion order issued shall be subject to further orders that may be passed by the Supreme Court in the said batch of cases.*

6. All Ministries/Departments are requested to urgently bring these instructions to the notice of all their attached/subordinate offices as also the Public Sector Undertakings and Statutory Bodies etc. For adherence and strict compliance. ”

4. Accordingly, we hereby dispose of the present petitions by giving liberty to petitioners to make a representation based on the judgment passed in case of **Jarnail Singh (supra)** and Office Memorandum dated 12.04.2022 issued by DoPT to the respondents. The respondents are directed to decide the same within a period of six weeks from the receipt of said representation in view of above and in particular para 4 of the Office Memorandum dated 12.04.2022.



5. With the aforesaid directions, we hereby dispose of the present petitions.
6. Pending applications also stand disposed of.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

JULY 14, 2022/rk

