

**NARDEEP SINGH
VS
STATE OF PUNJAB AND OTHERS**

Present: Mr. Gurminder Singh, Sr. Advocate
with Mr. Jatinder Singh Gill, Advocate
Mr. Sunil Garg, Advocate
for the review applicant.

Mr. Ranjit Singh Kalra, Advocate
for respondent No.5 to 8.

Mr. D.S. Patwalia, Sr. Advocate
with Gauravjeet Singh Patwalia,
Mr. L.K. Sidhu, Advocate
for the non-applicant/petitioner.

1. Vide a detailed judgment passed on 12.01.2023, the writ petition was allowed. Through this review application the respondent No.4 seeks review of the aforesaid judgment.

2. Arguments have been heard at length.

3. The learned counsel representing the review applicant has contended that the reliance placed by this Court on para 83 of the judgment passed in **Ajit Singh and other (II) Vs. State of Punjab and others (1999)7 SCC 209**, is not the *ratio decidendi* of the said judgment. It is contended that a roster bound accelerated promotee is not entitled to count his seniority from the date of continuous officiation on the promoted post. It is further contended that this Court has overlooked the relevant part of the instructions issued by the State of Punjab on 10.10.2014 (Annexure P-4/5) which reads as under:-

“In the above mentioned situation, it is clear that intention to prepare roster register, as per reservation policy, is to give necessary quota/representation to reserved classes. Benefit of Seniority could not be given, on the basis of these roster points.

These instructions be followed in true spirit”

4. The learned Senior counsel representing the applicant has drawn the attention of the Court to various paragraphs of the judgment given in Ajit Singh (II) case (supra). This Court has once again read the judgment carefully. A Five Judge Bench while deciding the clarification applications culled out four main points for consideration. Discussion on the first and second point starts from para 14. After discussing the various judgments passed by the Courts, the Bench culled out the following question for adjudication :-

“43. Question is whether roster-point promotions from Level 1 to Level 2 to reserved candidates will also give seniority at Level 2? This is the crucial question.”

5. Thereafter, the Five Judge Bench discussed various possibilities in order to balance the rights of senior general category candidates who are promoted subsequent to a roster bound promotee. In para 77, the conclusion of aforesaid point 1 and 2 reads as under:-

“77. We, therefore, hold that the roster-point promotees (reserved category) cannot count their seniority in the promoted category from the date of their continuous officiation in the promoted post.- vis-a-vis the general candidates who were senior to them in the lower category and who were later promoted. On the other hand, the senior general candidate at the lower level, if he reaches the promotional level later but before the further promotion of the reserved candidate— he will have to be treated as senior, at the promotional level, to the reserved candidate even if the reserved candidate was earlier promoted to that level. We shall explain this further under Point 3. We also hold that Virpal and Ajit Singh have been correct decided and that Jagdish Lal is not correct decided. Points 1 and 2 are decided accordingly.”

6. Thereafter, the Supreme Court explicitly dealt with the same situation which arises in this case in para 83 which has already been extracted in the main judgment. In these circumstances, the argument of the

learned Senior counsel representing the review applicant has no substance because the roster bound promotee is required to be placed below the senior general category candidates in the seniority list as per the settled rule.

7. It may be noted here that the observations made by the learned Senior counsel representing the review applicant are in the context of *inter se* seniority between the roster bound promotee who reaches at the promotional level on account of accelerated promotion vis-a-vis his seniors from the general category who subsequently shall be promoted at the level two. The ultimate discussion qua the situation of direct recruits who came into the cadre in between the dates of reserve bound promotee and senior general category, is explained in para 83 of the aforementioned judgment. Hence, for the purpose of determining the *inter se* rights of the direct recruits and roster bound promotee (reserved candidate) the Supreme Court has already examined and concluded the said question. In the considered opinion of this Court vis-a-vis the direct recruits and roster bound promotee, it is nowhere laid down in any of the service rules or instructions that govern the employees that the continuous officiation of the roster bound promotee on the promoted post shall not count for seniority as compared to the subsequent direct recruits.

8. This Court has carefully read the clarification dated 12.10.2014. Those clarifications are with respect to the fact that the roster bound promotee shall not be considered as a senior vis-a-vis general category senior candidates who catches with their junior roster bound promotee. Para 7 of the aforesaid instructions which has been extracted above, is also related to the same fact. This Court has not held that the petitioner is required to be placed in the seniority on the basis of the roster. These

clarifications cannot be read in the manner suggested by the learned Senior counsel representing the review applicant. In other words, it would not be appropriate to hold that a roster bound promotee (reserved candidate) is required to be pushed down and placed in the seniority list below a direct recruit who was born on the cadre subsequent to his date of promotion.

9. In *State of Orissa Vs. Sudhanshu Sekhar Misra and others* *AIR 1968 (SC) 647*, the Court explained that a decision is only an authority for what it actually decides. The essence in a decision or a judgment is considered to be its ratio and not every observation found therein, excluding what logically follows from the various observations made in the judgment. Moreover, in *Dr. Rajbir Singh Dalal Vs. Chaudhari Devi Lal University, Sirsa and another, 2008(9) SCC 284*, the Supreme Court observed that a decision of the Court cannot be treated as the Euclid's formula to be read and understood mechanically. A decision must be considered on the facts of the particular case to which it is applied.

10. A decision or judgment given by the Court must be applied dynamically rather than using it like a formula that does not fit the equation.

11. Consequently, finding no merits, the review application is dismissed.

February 08, 2023

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(ANIL KSHETARPAL)
JUDGE