

the judgment of the Hon'ble Supreme Court of India in ***Ajit Singh Januja and others versus State of Punjab and others, 1996(2) SCC 715***, the seniority of the petitioner in the Cadre of PES Class-II was reframed and the seniority of the petitioner went down so as to take her out of the zone of consideration for the promotion to the post of PES Class-I and the petitioner was not granted the benefit of promotion till her retirement.

Learned counsel for the petitioner submits that the petitioner is entitled for consideration for promotion as per the sealed cover process which was adopted on 21.07.1994 and thereafter again on 29.12.1994 and after the currency of the punishment are over, the respondents were under obligation to grant the petitioner promotion on the basis of the recommendations of the DPC.

Learned State counsel on the other hand submits that though the claim of the petitioner was considered on the basis of the unamended seniority in the Cadre of PES Class-II in the DPC meeting held on 21.07.1994 and 29.12.1994 but as the said seniority underwent change after the judgment in ***Ajit Singh Januja's case (supra)*** and the seniority of the petitioner was changed so as to take her out of the zone of consideration for promotion to the post of PES Class-I, merely that claim of the petitioner was considered in the DPC held on 21.07.1994 as well as on 29.12.1994, the same will give her no right to claim promotion by asking to open the sealed cover.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

From the facts which have been narrated hereinbefore, it is clear that the claim of the petitioner was considered for grant of selection grade on 27.04.1993 and as the petitioner was undergoing punishment at the relevant time, the benefit was not extended. Thereafter, for promotion from PES Class-II to PES Class-I, the claim of the petitioner was considered by the DPC on 21.07.1994 on the basis of the seniority which existed in the Cadre of PES Class-II at the relevant time but as the petitioner was facing departmental proceedings, she was not granted promotion. Again, on the same reason in the DPC meeting held on 29.12.1994, claim of the petitioner was rejected.

After the disciplinary proceedings came to an end and keeping in view the punishment imposed upon the petitioner, the respondents again convened the meeting for the Departmental Promotion Committee but as there was an interim order passed by the Hon'ble Supreme Court of India for effecting promotions keeping in view the request of the State with regard to implementation of the judgement in *Ajit Singh Januja's case (supra)*, the promotions could not be made. Ultimately, as per the judgement of Hon'ble Supreme Court of India in *Ajit Singh Januja's case (supra)*, which was decided on 01.03.1996, the same was implemented and the seniority in the Cadre of PES Class-II was revised on 17.03.1997 and keeping in view the revised seniority position of the petitioner in the said seniority, she was not found within the zone of consideration for promotion to PES Class-I. That being the factual position, merely that the petitioner was considered for promotion to PES Class-I in the Departmental Promotion Committee held on 21.07.1994 and again on 29.12.1994, she can claim that she be promoted

ignoring the subsequent events by which, the seniority in PES Class-II got revised and that too on the basis of the judgement of the Hon'ble Supreme Court of India in *Ajit Singh Januja's case (supra)* and the seniority of the petitioner was revised.

Nothing has come on record so far that any of the employer, who were promoted in pursuance to the recommendation of the DPC meeting held on 21.07.1994 and 29.12.1994, were declared junior to the petitioner in the revised seniority list in the Cadre of PES Class-II dated 17.03.1997. In the absence of any junior of the petitioner promoted to PES Class-I as per the revised seniority in the Cadre, no grievance can be raised by the petitioner.

Once, the petitioner lost seniority, keeping in view the judgement in *Ajit Singh Januja's case (supra)*, as the promotion to the PES Class-II of the petitioner was based upon the grant of reservation, the petitioner cannot be allowed to agitate that by ignoring the subsequent change in the seniority in PES Class-II, the petitioner is entitled for promotion on the basis of the recommendation of the DPC which was held on 21.07.1994 or on 29.12.1994. The said DPC recommendation will lose its significance keeping in view the subsequent change in the seniority in the Cadre of PES Class-II and therefore once, upto the date of retirement the petitioner did not come within the zone of consideration for PES Class-I keeping in view her revised seniority of cadre of PES Class-II dated 17.03.1997, no grievance can be raised by the petitioner especially when no junior of the petitioner in the revised seniority got promotion prior to the retirement of the petitioner.

In case, any of the employee junior in the revised seniority has been promoted to the post of PES Class-1 before the retirement of the petitioner, the petitioner will have a liberty to raise the said claim by authorities concerned by filing an appropriate representation.

With regard to the grant of the selection grade, the petitioner has a right to be considered for same after the punishment which was imposed upon her came to an end. Nothing has come on record as to whether the claim of the petitioner for the grant of selection grade in PES-II Cadre was considered after 1994. Hence, while rejecting the claim of the petitioner for the grant of promotion to the post of PES Class-I, direction is issued to the respondents to consider the claim of the petitioner for the release of the selection grade by passing an appropriate speaking order keeping in view the record of the petitioner at the relevant time.

Present petition is disposed of in terms of above.

Pending application, if any, also stands disposed of.

23-08-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO