

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

203 (2 cases)

CWP-23481-2014 (O&M)  
Date of Decision : 01.05.2024

JATHU RAI (SINCE DECEASED THROUGHTH HIS LRS) AND ORS

... PETITIONERS

Versus

FOOD CORPORATION OF INDIA AND ORS

... RESPONDENTS

2

CWP-5299-2019

SITA RAM

... PETITIONER

Versus

FOOD CORPORATION OF INDIA AND ORS

... RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present : Mr. Anil Rana, Advocate for  
Mr.Puneet Gupta, Advocate  
for the petitioners in CWP-23481-2014.

Mr. R.K.Arora, Advocate and  
Mr. Jugram Arora, Advocate  
for the petitioner in CWP-5299-2019.

Mr. K.K.Gupta, Advocate  
for the respondents-FCI.

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**JAGMOHAN BANSAL, J. (Oral)**

1. By this common order, CWP-23481-2014 and CWP-5299-2019 are disposed of as issues involved and prayer sought in all the petitions are common. For the sake of convenience and with the consent of parties, the facts are borrowed from CWP-23481-2014.

2. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of order dated 26.08.2014 (Annexure P-15) whereby their claim to enter their correct age in the record has been rejected by the respondents.

3. The petitioners are working with respondents as Labourers. They were initially working with FCI through contractor. The Government of India as well as State of Haryana framed policy whereby it was decided that workers working through contractor would be departmentalized. The petitioners came to be departmentalized. The dispute arose with respect to their age and seniority. The matter was referred to different committees and ultimately this Court vide judgment dated 08.01.2009 in CWP No.11647 of 1994 titled as **Ram Ratan and others vs. Food Corporation of India and others** appointed Mr. R.P.Bajaj, District & Sessions Judge (Retd.) to resolve the issue. The relevant extracts of the judgment are reproduced as below :

*“18. For the reasons stated above, the report dated 29.4.1994 (Annexure P-1) submitted by Shri R.K.Ranga, cannot be said to be in accordance with the directions issued by this Court and, therefore, cannot be sustained and is hereby quashed and accordingly, this writ petition is allowed.*

*19. The matter has been lingering since long and the petitioners are waiting for the determination of their seniority on the basis of which their rights would be crystalized. This position cannot be allowed to be kept pending for all times to*

*come and even the Division Bench of this Court while deciding LPA No.319 of 1998 and L.P.A.No.350 of 1998 had indicated that the matter needs to be resolved. Keeping the same in view and in the light of the fact that this writ petition has been pending in this Court since 1994, it would be appropriate that Shri R.P.Bajaj, District & Sessions Judge (Retd.), H.No.5460, Sector 38 (West), Chandigarh, be appointed as a one man Committee to examine all the relevant records produced before the Chopra Committee and the report of the Ranga Committee in the light of the directions of this Court in its orders dated 21.9.1993 and 4.2.1994 and then to redetermine the seniority of the workers who were working at FCI Karnal Depot. Let the said exercise be completed within a period of four months from today. Appropriate steps in accordance with law will be taken in pursuance to the seniority fixed by Shri R.P.Bajaj, within a period of one month thereafter.”*

4. Mr. Bajaj, considering different reports, issues involved and representation of stakeholders prepared seniority list of 542 workers. In the report, the date of birth of the workers was noticed apart from months of their experience. The said report came to be challenged before this Court by way of CWP No.574 of 2011. This Court vide order dated 13.01.2011 upheld report of Mr. Bajaj’s Committee and dismissed the writ petition. The relevant extracts of the order dated 13.01.2011 are reproduced as below:

*“The main submission, as made, is that Bajaj Committee has gone outside the purview of direction issued by Single Judge and had not taken into consideration the reports of all the Committees, as per direction given in the order as well as by the LPA Bench.*

*I am unable to accept the submission made by learned counsel for the petitioners. The Bajaj Committee report, which is annexed with the petition as Annexure P-7, is*

*comprehensive, giving history of the issues involved and various Committees that had earlier gone into to examine the issue. Reference is made to the reports of Dalela Committee, Chopra Committee and the Ranga Committee as well and thereafter it is concluded that in depth study of reports of all the four Committees set up by the Food Corporation of India to determine seniority, the Chopra Committee report is found unblemished. This report was found to be well reasoned and to be in conformity with the parameters laid down in the F.C.I circulars issued in the year 1991. The finding also is that this will lessen the agony of those persons who were deprived of the benefit of seniority as given by Chopra Committee report due to undue benefit given on the basis of Ranga Committee report, which had been quashed it, thus, can not be said that Bajaj Committee has in any manner gone outside the purview or parameters laid down by learned Single Judge of this Court. Once after detailed analysis, the Bajaj Committee has come to conclude that Chopra Committee has reached the correct conclusion, then it can be observed that mode and method adopted by the Bajaj Committee was fair, just and equitable and would not suffer from any infirmity as urged by counsel for the petitioners.*

*The fact that some evidence regarding gate register was not produced before the Bajaj Committee would also not mean much as same registers were not found available but the names of those employees, reflected in these registers were taken from Chopra Committee report before which these registers had been earlier produced. It can not, therefore, be said that the Bajaj Committee report would be bad on the ground that relevant material was not considered and that it would call for interference in exercise of writ jurisdiction by this Court.*

*The submission that the matter be referred to the Labour Court for determination would be too late in a day to*

*accept and such submission, if any, ought to have been made before the Single Judge or the LPA Bench, where this plea was never raised. The order passed by the learned Single Judge in CWP No.11647 of 1994 and that passed by the LPA Bench was allowed to acquire finality and was not put to any challenge, can not be allowed to be now challenged in under hand manner by challenging the report of Bajaj Committee with a prayer to refer the matter for examination by Labour Court. There is, thus, no merit in the writ petition and the same is accordingly dismissed.”*

5. The aggrieved parties preferred intra-court appeal which came up for consideration before a Division Bench of this Court. The Appellate Court vide judgment dated 20.03.2014 dismissed appeal and upheld judgment of Single Judge. The Appellate Court further directed FCI to implement the report submitted by Mr. Bajaj Committee in toto. The relevant extracts of the judgment are reproduced as below :

*“Learned Single Judge has discussed each and every aspect and has rightly come to the conclusion that Mr. Bajaj has discussed reports made by all the Committees and further looked into record produced before him and written submissions made by the parties concerned. Perusal of the report indicates that the proceedings continued on many dates and the opportunities of hearing and to place on record the documents were granted to all the concerned parties. It is not in dispute that the appellants in this case are in service on account of the report made by Mr. Ranga in the year 1994. That report was rejected by this Court as has been referred to above. Accordingly, on the basis of the report made by Mr. Ranga, the appellants do not have any right to remain in service. However, they are continuing as such by making determined effort to keep the litigation alive. Despite relieving orders issued, they are continuing in service under*

*the order passed by this Court from time to time. At one point of time, stay application filed by them was dismissed. They went to Hon'ble Supreme Court by filing SLP, which was also dismissed.*

*In view of the above, we are of the opinion that the order passed by learned Single Judge is perfectly justified.*

*The appeal is accordingly dismissed.*

*However, the FCI is directed to implement the report submitted by Mr. Bajaj in toto. It is made clear that all the appellants and others, who were given appointments, in terms of the report made by Mr. Ranga leave their assignment within 15 days from today. The authorities of the FCI may adjust the appellants if the vacancy exists subject to their moving applications and their applications will be considered strictly in terms of the seniority list as per the report made by Mr. Bajaj. Needful shall be done within four months and if the claim of the appellants is rejected, it will not furnish a cause for them to agitate the matter any further.”*

6. The aggrieved persons further unsuccessfully preferred SLP before Supreme Court.

7. Mr. Anil Rana, Advocate and Mr. R.K.Arora, Advocate submit that report of Bajaj Committee for the purpose of determination of petitioners' age cannot be relied upon. The petitioners were subjected to medical test wherein their age was determined. The Bajaj Committee has not returned findings with respect to age of the petitioners and mechanically recorded their date of birth. As medical report with respect to their age is available, the respondent has wrongly issued appointment letter on the basis of Bajaj Committee's report. The respondent in view of its circular was bound to rely upon medical report instead of report of Bajaj Committee.

8. Per contra, Mr. K.K.Gupta, Advocate submits that Bajaj Committee has considered representation of all the stakeholders and previous records. In the report of Bajaj Committee, age of petitioners has been noticed. The report was challenged before this Court. As report of Bajaj committee stands approved by this Court, the petitioners indirectly cannot dispute said report and doubt their age recorded in the report.

9. I have heard the arguments of learned counsel for the parties and perused the record with their able assistance.

10. The conceded position emerging from record is that the petitioners were initially working with FCI through contractor. They came to be departmentalized in view of instructions issued by Government of India. They were not having concrete evidence of their age, thus, different mode and methods were adopted to ascertain their age. This Court appointed Mr. Bajaj to determine seniority of petitioners. Mr. Bajaj in his report has noted date of birth of petitioners and thereafter, on the basis of age and experience, has determined seniority.

11. It is undisputed fact that Bajaj committee in its report has jotted down date of birth of all the petitioners. They are not assailing report of Bajaj Committee. In any case, said report has been upheld by this Court and SLP against judgment of a Division Bench of this Court stands dismissed. The petitioners are claiming that their age should be determined on the basis of medical report instead of report of Bajaj Committee. The medical report indicates age of petitioners with margin of 4/5 years. It is a settled proposition of law that medical report especially ossification test is a corroborative evidence and it does not conclusively prove age of any person. The evidence of medical report, thus, is not a conclusive evidence. **Mr. Bajaj in his report has noted**

date of birth of all the petitioners. They have not challenged said report rather said report has already been upheld by this Court.

12. This Court if comes to a conclusion that report of Bajaj Committee qua age cannot be relied upon, it would amount to recording an opinion contrary to judgment of this Court in CWP No.574 of 2011 as well as LPA No.218 of 2011. In view of orders passed by this Court in aforesaid writ petition as well as LPA, this Court cannot draw any conclusion contrary to report of Bajaj Committee.

13. In the wake of above discussion and findings, both the petitions deserve to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)  
JUDGE

01.05.2024  
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| <i>Whether speaking/reasoned</i> | <i>Yes</i> |
| <i>Whether reportable</i>        | <i>Yes</i> |