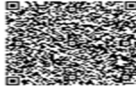


**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

2025:PHHC:050151-DB



Civil Writ Petition No. 26116 of 2013 (O&M)

Date of Decision : 09.04.2025

Alka Malik

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE KARAMJIT SINGH, JUDGE.

Present: Mr. Gurminder Singh, Senior Advocate with
Mr. RPS Bara, Advocate,
Ms. Nirmala Jangra, Advocate,
Mr. Deepak Girotra, Advocate,
Mr. Lakshay Malik, Advocate, for the petitioner.

Mr. Naveen S.Bhardwaj, Addl. Advocate General, Haryana.
Mr. Kanwal Goyal, Advocate with
Ms. Sheena Dahiya, Advocate, for respondent No.2 High Court.
Mr. AP Setia, Advocate, for respondent No.6.
Mr. Mukesh Rao, Advocate, for respondent No.8.
Mr. Akash Agarwal, Advocate for
Mr. Rakesh Nagpal, Advocate, for respondent No.11.
Mr. Akhil Kashyap, Advocate, for respondent No.16.

SHEEL NAGU, CHIEF JUSTICE

The petitioner being a member of Superior Judicial Services of State of Haryana, had filed this petition in the year 2013 aggrieved by her supersession vide order dated 31.03.2011 (Annexure P-5), by some of her junior batch mates in the cadre of Civil Judge (Senior Division). Though subsequently, the petitioner was promoted as a member of the superior judicial services-State of Haryana vide order dated 19.05.2012 (Annexure P-7).

2. The aforesaid challenge is primarily based on the ground that once the petitioner had passed the suitability test prescribed for promotion under the 65% quota vide Rule 6(1)(a) of Haryana Superior Judicial Services Rules-2007 (for brevity '2007 Rules'), the criteria for preparing the merit list ought to have been the seniority in the cadre of Civil Judge (Senior Division) and not the merit ranking obtained by the petitioner and her colleagues in the suitability test held on 05.03.2011.

3. This petition despite the pleadings being complete, was kept pending in view of the Supreme Court being seized of a similar issue in a case arising from the judgment rendered in ***Ravikumar Dhansukhlal Maheta and another vs. High Court of Gujarat and others*** 2024 AIR (SC) 3256, which was referred to a Bench of three Judges and was decided on 17.05.2024, concluding thus:-

"141. We summarise our final conclusion as under: -

(A) What has been conveyed, in so many words, by this Court in All India Judges' Association (3) (supra) is that the suitability of each candidate should be tested on their own merit. The aforesaid decision does not speak about comparative merit for the 65% promotional quota. In other words, what is stipulated is the determination of suitability of the candidates and assessment of their continued efficiency with adequate knowledge of case law.

(B) For the 65% promotional quota this Court in All India Judges' Association (3) (supra) did not state that after taking the suitability test, a merit list should be prepared and the judicial officers should be promoted only if they fall in the said merit list. It cannot be said to be a competitive exam. Only the suitability of the judicial officer is determined and once it is found that candidates have secured the requisite marks in the suitability test, they cannot be thereafter ignored for promotion.

(C) However, we clarify that for the 65% promotional quota, it is for a particular High Court to prescribe or lay down its own

minimum standard to judge the suitability of a judicial officer, including the requirement of comparative assessment, if necessary, for the purpose of determining merit to be objectively adjudged keeping in mind the statutory rules governing the promotion or any promotion policy in that regard.

(D) We find no fault with the promotion process adopted by the High Court of Gujarat as the same fulfils the twin requirements stipulated in paragraph 27 of All India Judges' Association (3) (supra) being: -

(I) The objective assessment of legal knowledge of the judicial officer including adequate knowledge of case law and;

(II) Evaluation of the continued efficiency of the individual candidates.

(E) The four components of the Suitability Test as prescribed under the recruitment notice dated 12.04.2022 comprehensively evaluate (i) the legal knowledge including knowledge of the case law through the objective MCQ - based written test AND (ii) the continued efficiency by evaluation of the ACRs, average disposal and past judgments of the concerned judicial officer.

(F) We are of the view that if the contention of the petitioners were to be accepted then it would completely obliterate the fine distinction between the two categories of promotion in the cadre of District & Sessions Judge by way of 65% promotion on the basis of 'Merit-cum-Seniority' and 10% promotion strictly on the basis of merit. In other words, the 65% quota for promotion will assume the character of the 10% quota for promotion by way of a departmental competitive examination which is distinct in its nature since the latter is strictly based on merit.

(G) Deviating from the process of promotion duly followed by the High Court of Gujarat since 2011 would cause grave prejudice to those judicial officers who lost out in the previous selections to the Higher Judicial Service despite having scored higher marks in the suitability test since, judicial officers who were relatively senior were promoted to the cadre of District & Sessions Judges. Accepting the argument of the petitioners would completely flip the process and displace the respondents once again, for a contrary reason.

142. We clarify that this judgment shall not be construed to invalidate the promotions to the Higher Judicial Service granted by other High Courts based on a construction of their own rules and requirements of service in the state judiciary. If any challenge to such promotion process is pending, it shall be dealt with independently by the High Court or the forum where any issue is pending.

143. For all the foregoing reasons, we have reached the conclusion that the impugned final Select List dated 10.03.2023 is not contrary to the principle of 'Merit-cum-Seniority' as stipulated in Rule 5(1)(I) of the 2005 Rules.

144. In the result, the present petition fails and is hereby dismissed. Interim Order granted earlier stands vacated.

145. The parties shall bear their own costs."

4. The aforesaid decision has subsequently been followed by the Apex Court in ***Dharmendra Kumar Singh and others vs. The Hon'ble High Court of Jharkhand and others, Civil Appeal No. 299 of 2025, decided on 15.01.2025***, and more recently on 05.03.2025 in Civil Appeal No. 6687-2023 ***The High Court of Punjab and Haryana at Chandigarh vs. Vimal Kumar and others***.

5. Since curtains have now been drawn on the controversy in question, this Court deems it appropriate to allow this petition in the following terms:-

- i) The decision rendered by the Apex Court in the case of ***Ravikumar Dhansukhlal Maheta and another vs. High Court of Gujarat and others (supra)*** decided by three Judges Bench of Apex Court would apply *mutatis mutandis* for grant of relief to the petitioner herein;
- ii) It is made clear that promotions of the private respondents already made shall not be disturbed;

- iii) The petitioner shall be entitled to consequential notional seniority, fixation of pay and notional promotion to the next higher grade, if due, but without any backwages. Supernumerary post be created for grant of this benefit, if necessary.
- iv) No costs.

(SHEEL NAGU)
CHIEF JUSTICE

(KARAMJIT SINGH)
JUDGE

09.04.2025
ravinder

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No