

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 7802 OF 2001

SAMMAT SINGH AND OTHERS

Appellant (s)

VERSUS

STATE OF HARYANA AND OTHERS

Respondent(s)

WITH

Civil Appeal NO. 7803 of 2001

O R D E R

The order passed in Civil Appeal No.7802 of 2001 shall also govern disposal of connected civil appeal as it arises out of the common impugned judgment.

Civil Appeal No.7802 of 2001:

For the sake of convenience, facts appearing in this Appeal are taken into consideration.

The appellants feeling aggrieved by the judgment and order dated 16.1.2001, pronounced by the Division Bench of the High Court of Punjab and Haryana High Court at Chandigarh in their writ petition filed under Article 226/227 of the Constitution of India, dismissing the same, are before us.

Certain material facts for deciding the said appeal are mentioned herein below.

Originally Sadhu Singh was recruited as Clerk on 9.8.1971. He was then promoted as Assistant on 2.5.1977 and

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then to the post of Deputy Superintendent on 1.3.1990.

B.L.

Grover was recruited as Clerk on 12.8.1971.

He was promoted as

Assistant on 28.7.1977 and as Deputy Superintendent on

23.11.1990. Admittedly, appellants belong to reserved category of Scheduled Caste.

In the State of Haryana, upto the level of Deputy Superintendent, which is a Class-III post, there is a policy of

reservation, but there is no policy of reservation for Class-IV post. The appellants were then promoted to the post of Superintendent (Class IV post) on 3.4.1991 and 8.7.1991 respectively. In the writ petition, they had challenged the seniority list finalised by respondent no.1 - State of Haryana on 17.5.2000, on the ground that seniority assigned to respondents nos.2 to 78 is contrary to the judgments of the Supreme Court as respondents nos.11 to 78 had not reached the level of Deputy Superintendent when the appellants were already promoted as Superintendent and thereafter as Under Secretary. Thus, the same deserves to be revised.

In addition to the aforesaid grievance of the appellants, they had also challenged the subsequent order dated 6.10.2000, whereby they were reverted to the post of Superintendent on the basis of the judgment of the Supreme Court. On various grounds, they had challenged the aforesaid two orders passed by the State Government.

The respondents, in their reply, denied the claim of

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the writ petitioners and contended that on the strength of the judgment reported in (1999) 7 SCC 209 "Ajit Singh (II) and others versus State of Punjab and others", the seniority list had been refinalised, and therefore, no grievance can be made by the appellants with regard to the seniority list which has been drawn up on the strength of the judgment of the Supreme Court in the matter of Ajit Singh II (supra).

They have also relied on various other judgments of the Supreme Court to contend that the appellants have no ground to challenge the aforesaid two orders.

Lastly, they have contended that with the passage of time appellants as well as the private respondents, on attaining the age of superannuation, have also demitted the office. Thus no useful purpose is going to be served even if they are placed as per their request in the seniority list. It

was further contended by them that once the seniority list was finalised in the year 2000, it will be difficult to upset the same only for the purpose of placing the appellants according to their prayer.

The Division Bench had considered the matter in great details from all angles, and after going through various judgments of the Supreme Court pronounced from time to time, has recorded the following findings occurring in paragraph 22 therein. The relevant portion thereof is reproduced herewith:

- (i) the reserved candidates cannot count their
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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 promoted later on.

(ii) It was further held that once there is no reservation beyond Level 3, in other words when there is no reservation for the post of Superintendent, the promotion must be on the basis of modified seniority at Level 3.

(iii) Seniority in the promotional cadre of such excess roster point promotees have to be reviewed after 10.2.1995 i.e. after the decision in R.K. Sabharwal's case (supra). It would be counted only from the date on which they would have otherwise got normal promotion in any future vacancy.

(iv) If any reserved candidate, even on erroneous promotion, has been so promoted to Level 4, he shall not be reverted.

(v) As and when the senior reserved candidate is later promoted to Level 4, seniority at Level 4 has to be refixed. In other words, the seniority has to be redrawn as and when general category candidate catch-up the reserved candidate up to the level where reservation is prescribed. If he was senior to the reserved candidate at the earlier level, he would be again treated as senior even though he may be promoted later."

In our considered opinion, the question that has been

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projected by the appellants in the appeal stood answered in the

judgment of the Supreme Court reported in (1999) 8 SCC 213

"Sube Singh Bahmani and others versus State of Haryana".

In

the impugned judgment, relevant paragraphs 19 and 20 of Sube

Singh (supra) have been reproduced. For the sake of

convenience, we also deem it proper to reproduce the same here:

"19. However, so far as the reserved candidates Sadhu Singh and B.L.Grover are concerned, by the time they were promoted as Superintendents on 3.4.91 and 8.7.91, all the 4 writ petitioners became Dy. Superintendents. Sammat Singh appears to be in like position. Writ petitioners 1 to 4 reached the level of Dy. Superintendent on 6.5.85, 13.3.87, 30.4.90 and 7.1.91. The four writ petitioners have, therefore, a rightful claim for seniority over Sadhu Singh, B.L. Grover and Sammat Singh at the level of Dy. Superintendent. In that event, even if the above reserved candidates have been earlier promoted as Dy. Superintendents, they have to be treated as juniors to the 4 writ petitioners at that level. True, promotions made before 1.3.96 when Ajit Singh No.1 was decided will stand and there will be no reversions. But the seniority of the general candidates at the level of Dy. Superintendents is to be fixed as stated above.

20. If the seniority of these four general candidates has not been taken into account when the reserved candidates were promoted as Superintendents and above, the same has to be

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reviewed. The promotion to and the seniority at the level of Superintendent and Under Secretary between the 4 writ petitioners (general candidates) and Sadhu Singh, B.L.Grover and Sammat Singh has, therefore, to be reviewed because their case is not like the case of Gian Singh. Ajit Singh No.II will have to be implemented. Points 1 to 3 as decided there will govern seniority and Point 4 there will govern the prospectivity of Sabharwal and the prospectivity of Ajit Singh No.1. The respective cut off dates have to be adhered to. This appeal is disposed of accordingly."

It has been vehemently canvassed before us by learned senior counsel appearing for respondent no.1 that pursuant to the directions of this Court in the matter of Ajit Singh II (supra), the whole exercise has been completed by revising the seniority list and then the appellants were placed accordingly in the same. Thus, at this point of time, appellants cannot raise any grievance in this regard.

We were also taken through the chart reproduced in the impugned judgment to show how the seniority list was prepared. After having gone through it critically, we find ourselves in full agreement with the contentions of learned

counsel for the respondent - State.

Once the seniority list has been finalised pursuant to the judgment of this Court, apparently appellants cannot legitimately raise any objections thereto as Ajit Singh II

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(supra) has been fully implemented.

Ultimately, the Division Bench in the impugned judgment has held as under:

"After reviewing the said seniority list and refixing the same at that level, promotion to the further level of Superintending Engineer has to be reviewed. Of course, reversion was not permitted to those who had been promoted before 1.3.1996. That is exactly what has been done in the present controversy. The seniority of the general category candidates has been restored in accordance with the decision of the Supreme Court in the case of Ajit Singh II and R.K. Sabharwal and they are being promoted from the effective date."

After having heard the learned counsel for the parties at length and perusal of the record and in view of the well reasoned judgment of the Division Bench of the High Court, we are of the considered opinion that no case has been made out for interference therein. We are also fortified in our opinion on the ground that the appellants have already been superannuated and no useful purpose is going to be served by upsetting final seniority list that was drawn up in the year 2000.

For the said reasons, we find that there is no merit in the same and appeals are dismissed with no order as to costs.

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.....J.
(DEEPAK VERMA)

.....J.
(K.S. RADHAKRISHNAN)

NEW DELHI,
NOVEMBER 02, 2011.

ITEM NO.101

COURT NO.11

SECTION IV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 7802 OF 2001

SAMMAT SINGH & ORS.

Appellant (s)

VERSUS

STATE OF HARYANA & ORS.

Respondent(s)

(With appln(s) for directions and office report)

WITH

Civil Appeal NO. 7803 of 2001

(With office report)

Date: 02/11/2011 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK VERMA

HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For Appellant(s) Dr. Krishan Singh Chauhan, Adv.
Mr. Tej Singh Varun, Adv.
Mr. Ajit Kumar Ekka, Adv.
Mr. Chand Kiran, Adv.

For Respondent(s) Mr. P.N. Mishra, Sr. Adv.
Mr. Manjit Singh, Addl. Adv. Genl., Haryana
Mr. Tarjit Singh, Adv.
Mr. Manjeet Singh, Adv.
Mrs. Vivekt Singh, Adv.
Mr. Shavan Mishra, Adv.
Mr. Kamal Mohan Gupta, A.O.R.

Mr. Sunil Kumar Jain, A.O.R.
Rr-Ex-Parte

UPON hearing counsel the Court made the following

O R D E R

In terms of signed order, the appeals are
dismissed with no order as to costs.

(A.D. Sharma)

Court Master

(Signed Order is placed on the file)

(S.S.R. Krishna)

Court Master