

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No. 6497 of 2009 and connected cases

Date of Decision: September 23, 2011

Union of India and another

...Petitioners

Versus

Jarnail Singh and others

...Respondents

CORAM: HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE A.N. JINDAL

Present: Mr. Rajiv Atma Ram, Sr. Advocate, with
Mr. Vikas Kuthiala, Advocate.

Mr. M.K. Tiwari, Advocate.

Mr. Deepak Sibal, Advocate.

Ms. Renu Bala Sharma,
Sr. Panel Counsel, UOI.

Mr. A.S. Grewal, Sr. Panel Counsel,
Income Tax Department.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

M.M. KUMAR, J.

1. This order shall dispose of a bunch of petitions*, which have been filed against various orders rendered by the Chandigarh Bench of the Central Administrative Tribunal (for brevity, 'the Tribunal'), in various Original Applications. In these cases, the Tribunal by almost identical orders has issued directions for consideration of the cases of the Income Tax Inspectors belonging to Scheduled Caste category for promotion to the posts of Income Tax Officer on the basis of their 'own merit' resulting in consumption of General category posts as against the roster point promotion, relaxed qualification promotion and other

concessions. The necessary consequence is shrinking of General category seats for the inspectors belonging to General category and more posts becoming available to Schedule Caste category. The Tribunal has issued directions for consideration of their cases with effect from 11.6.1995 when 85th amendment of the Constitution came into operation.

2. It would be suffice to note that all the issues raised in these petitions and the judgment of the Tribunal dated 11.12.2008 passed in OA No. 519-PB-2007 as well as order dated 7.5.2009 passed in R.A. No. 24 of 2009, have already been gone into by this Court in the case of Lachhmi Narain Gupta and others v. Jarnail Singh and others (CWP No. 13218 of 2009, decided on 15.7.2011). After noticing the factual position and the rival contention of the parties, this Court reached the following conclusion:-

"40. When the principles laid down in the case of M. Nagaraj (supra) and Suraj Bhan Meena (supra) are applied to the notifications impugned in the present proceedings, namely, 11.7.2002, 31.1.2005 (R-1 and R-2) and further notification dated 21.1.2009 and 10.8.2010, it becomes clear that no survey has been undertaken to find out inadequacy of representation in respect of members of the SC/ST in the services. The aforesaid fact has been candidly admitted in the written statement filed by respondent Nos. 5 and 6. In the absence of any survey with regard to inadequacy as also concerning the overall requirement of efficiency of the administration where reservation is to be made alongwith backwardness of the class for whom the reservation is required, it is not possible to sustain these

notifications. Accordingly, it has to be held that these notifications suffers from violation of the provisions of Articles 16(4A), 16(4B) read with Article 335 of the Constitution as interpreted by the Constitution Bench in *M. Nagaraj's case* (supra) as well as in *Suraj Bhan Meena's case* (supra).

41. The net result is that no reservation in promotion could be made in pursuance to office memorandum dated 2.7.1997. We are not dealing with many other contentions raised by the learned counsel for the petitioners for the reason that the core issue going to the roots of the matter has been determined in their favour and such a necessity is obviated.

42. As a sequel to the above discussion, the judgment of the Tribunal is set aside and the instructions issued by the Union of India are also quashed being contrary to the view taken by Hon'ble the Supreme Court in the cases of *M. Nagaraj* (supra) and *Suraj Bhan Meena* (supra).

3. In coming to the aforementioned conclusion this Court has noticed and referred to a catena of judgments rendered in the cases of *Sant Ram v. State of Rajasthan*, AIR 1967 SC 1910; *Piare Lal v. Union of India*, AIR 1975 SC 650; *State of Punjab v. Gurdev Singh*, JT 1991 (3) SC 465; *Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217; *Uday Pratap Singh v. State of Bihar*, JT 1994 (6) SC 344; *R.K. Sabharwal v. State of Punjab*, (1995) 2 SCC 745; *Union of India v. Virpal Singh Chauhan*, (1995) 6 SCC 684; *Ajit Singh Januja v. State of Punjab*, (1996) 2 SCC 715; *V.P. Shrivastava v. State of M.P.*, (1996) 7 SCC 759; *Chattar Singh v. State of Rajasthan*, AIR 1997 SC 303; *Jagdish Lal v. State of*

Haryana, (1997) 6 SCC 538; Roshni Devi v. State of Haryana, AIR 1998 SC 3268; Union of India v. N. Y. Apte, AIR 1998 SC 2651; Roshni Devi v. State of Haryana, (1998) 8 SCC 59; Ajit Singh (II) v. State of Punjab, (1999) 7 SCC 209; Ram Prasad v. D.K. Vijay, (1999) 7 SCC 251; Union of India v. Satya Prakash, 2006(3) SLR 56; Union of India v. Satya Parkash, JT 2006 (3) SLR 56; M. Nagaraj v. Union of India, (2006) 8 SCC 212; Union of India v. Bharat Bhushan, 2008 (7) AC (Delhi) 420; Jitender Singh v. State of U.P., JT 2010 (1) SC 177; Suraj Bhan Meena v. State of Rajasthan, (2011) 1 SCC 467; Krishna Gopal v. State of Haryana, 2010 (1) SCT 538; Raj Kumar and others v. Hem Raj Singh Chauhan, (2010) 4 SCC 554; and Union of India v. Ramesh Ram, JT 2010 (5) SC 212.

4. We find that the issues raised in these petitions are squarely covered by the Division Bench judgment rendered in the case of Lachmi Narain Gupta (supra). Accordingly, these petitions are also disposed of in the same terms.

5. A photocopy of this order be placed on the files of connected case.

(M.M. KUMAR)
Acting Chief Justice

(A.N. JINDAL)
Judge

September 23, 2011
Pkapoor

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Sr. No.	CWP No.	Title	Arising out of	Date of the order(s) passed by the Tribunal
1	6497 of 2009	Union of India and another v. Jarnail Singh and others	OA No. 519-PB-2007 and RA No. 24 of 2009	11.12.2008 and 7.5.2009

2	7087 of 2009	Union of India and another v. Harjinder Singh and others	OA No. 629-PB-2007	11.12.2008
3	8381 of 2009	Union of India and another v. Dhanno Devi and another	OA No. 155-HR-2008	11.12.2008
4	8582 of 2009	Union of India and another v. Dev Raj Paul and another	OA No. 161-PB-2008	11.12.2008
5	9581 of 2009	Union of India v. A.K. Pasi and others	OA No. 677-HR-2007	11.12.2008
6	9597 of 2009	Union of India and others v. Balraj Singh and others	OA No. 377-CH-2006	11.12.2008
7	9921 of 2009	Union of India and another v. Jarnail Singh and another	OA No. 794-PB of 2006 and M.A. No. 104/09	4.12.2008 and 25.2.2009
8	10004 of 2009	Union of India and others v. Harbir Singh and another	OA No. 821-PB-2006	11.12.2008
9	15126 of 2009	Harjinder Singh and others v. Union of India and others	OA No. 629-PB-2007	11.12.2008
10	16030 of 2009	Balraj Singh and others v. Union of India and others	OA No. 377-CH-2006	11.12.2008
11	16761 of 2009	Devraj Paul v. Union of India and others	OA No. 161-PB-2008	11.12.2008
12	16930 of 2009	Dhanno Devi v. Union of India and another	OA No. 155-HR-2008	11.12.2008

(M.M. KUMAR)
Acting Chief Justice

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(A.N. JINDAL)
Judge