

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

Hearing by Video Conferencing

O.A. No.060/00891/2020



Chandigarh, this the 20th of November, 2020

**HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. ANAND MATHUR, MEMBER (A)**

Anju Bala, aged 46 years W/o Sh. Harish Kumar Kakkar, presently working as Nursing Officer, Government Medical College and Hospital, Sector 32, Chandigarh - 160032, resident of House No. 543, Sector 20-A, Chandigarh - 160020.

....Applicant

(BY: Mr. R.K. Sharma, Advocate)

Versus

1. Union Territory, Chandigarh through Advisor to the Administrator, Union Territory, Sector 9, Chandigarh - 160009.
2. Secretary Personnel, Chandigarh Administration, UT Secretariat, Deluxe Building, Sector 9-D, UT Chandigarh - 160009.
3. Principal Secretary, Medical Education and Research, U.T. Chandigarh, UT Secretariat, Deluxe Building, Sector 9-D, UT Chandigarh- 160009.
4. Director Principal, GMCH, Sector 32, Chandigarh.
5. Smt. Rachhwinder Kaur, Nursing Officer, E-Code No. 2077, GMCH Sector 32, Chandigarh - 160032.

... .Respondents

O R D E R(Oral)

SANJEEV KAUSHIK, MEMBER (J):

1. Applicant is before this Court seeking mainly the following reliefs:-
"i) Quash action of the official respondents in considering respondent no. 5 for promotion as Senior



Nursing Officer by virtue of reservation in promotion in violation of law laid down by the Hon'ble Supreme Court in the case of **M. Nagraj** reported as (2006) 8 SCC 212 read with **Jarnail Singh and Others Versus Lachhmi Narain Gupta and Others** reported as 2018 (4) SCT 445 and the latest judgments of the Hon'ble Jurisdictional High Court rendered in CWP No. 10431/2017 and 10434/2017 titled as **Jai Karan and Others Vs. U.O.I. and Others** decided on 05.02.2020 and CWP No. 11386/2018 titled as **UOI and Others Versus M.S. Dhindsa** decided on 12.02.2020.

ii) Issue directions to the official respondents to consider and promote the applicant as Senior Nursing Officer from the date when seniors have been promoted vide order dated 24.10.2020 (A-5), without providing reservation in promotion, with all the consequential benefits. "

2. Heard Mr. R.K. Sharma, learned counsel for the applicant. He contends, inter-alia, that despite a pronouncement by the Hon'ble Supreme Court in the celebrated case of M. Nagraj Vs. Union of India and Others (supra) holding that no reservation in promotion can be given, as reiterated in the case of **S. Paneer Selvam Vs. State of Tamil Nadu**, (2015) 10 SCC 292. Silvi, and following that ratio this Court also decided various cases of Chandigarh Administration which have been upheld by the Jurisdictional High Court, including the case of **Bharat Sanchar Nigam Limited & Another Vs. Shri Naveen Sharma and Others**, CWP No. 26882 of 2016 decided on 23.12.2016, holding that there shall be no reservation in promotion. He argued that despite those orders, the respondents have considered and recommended the case of



private respondent, who is junior to the applicant, for promotion to the post of Senior Nursing Officer, by giving her the benefit of reservation in promotion. He also pleaded that vide order dated 24.10.2020 (Annexure A-5), the respondents have promoted four persons of general category whose names have been recommended by the DPC held on 20.10.2020, and the applicant is apprehending that since the name of respondent No. 5 has already been recommended, the respondents may issue her promotion order by giving her the benefit of reservation. He submits that the applicant has already submitted her representation dated 10.11.2020 (Annexure A-6) requesting the respondents to grant her promotion to the post of Senior Nursing Officer, as per rules and to follow the mandate given by the Hon'ble Supreme Court not to grant reservation in promotion, which is pending consideration till date. He draws our attention to an order dated 28.09.2020 passed by this Court in identical case bearing O.A. No. 693/2020, vide which the respondents have been directed to consider the representation of the applicant therein. He prays that applicant will be satisfied if an order on similar lines is passed in this case.

3. Considering the above noticed facts and the limited prayer made on behalf of the applicant, we dispose of the O.A. in limine, without going into its merit, by directing the respondents to consider and decide the indicated



representation (Annexure A-6) of the applicant by passing a reasoned and speaking order and while deciding that they will take into account the law laid down by the Hon'ble Supreme Court in the cases of M. Nagraj (supra) and other subsequent judgments on the issue and follow the mandate given therein. The above exercise be carried out within a period of four weeks from the date of receipt of a certified copy of this order. The speaking order to be passed by the respondents be duly communicated to the applicant. No costs.

(ANAND MATHUR)
MEMBER (A)

(SANJEEV KAUSHIK)
Member (J)

Place: Chandigarh
Dated: 20.10.2020

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