

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

OA No. 060/00485/2016

Date of decision- 30.01.2018

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

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1. Reena Rani W/o Raju age 49 years, R/o H.No. 1377, Sector 15 B, Chandigarh, Group C, Working as Nursing Sister under Chandigarh Administrative Health Department, Govt. Multi Specialty Hospital, Sector 16, U.T Chandigarh.
2. Ranjeet Kaur Aulakh W/o Baljinder Singh Aulakh, age 50 years, R/o H.No. 1374, Sector 15 B, Chandigarh, Group C, working as nursing sister under Chandigarh Administrative Health Department, Govt. Multi Specialty Hospital, Sector 16, UT Chandigarh.

...APPLICANT

BY ADVOCATE : Ms. Sonia G. Singh.

VERSUS

1. Chandigarh Administration through its Administrator.
2. Director, Health and Family Welfare, Govt. Multispecialty Hospital, Sector 16, UT Chandigarh.
3. Joint Director, Health and Family Welfare, Govt. Multispecialty Hospital, Sector 16, UT Chandigarh.
4. Surinder Kaur working as Assistant Matron, Govt. Multispecialty Hospital, Sector 16, UT Chandigarh.
5. Jastina M. Lal working as Sister Tutor Govt. Multispecialty Hospital, Sector 16, U.T Chandigarh.
6. Amarjit Kaur, working as Sister Tutor Govt. Multispecialty Hospital, Sector 16, UT Chandigarh.

...RESPONDENTS

BY ADVOCATE: Mr. Arvind Moudgil, counsel for respondent nos. 1 to 3.
None for respondent no. 4 to 6.

ORDER (ORAL)

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SANJEEV KAUSHIK, MEMBER(J):-

By means of present O.A filed under Section 19 of the Administrative Tribunals Act, 1985, the applicants seek following relief:-

" 8. Relief

In view of the above facts it is therefore most respectfully prayed that the impugned order dated 12.05.2016 (Annexure A-15) may kindly be set aside and the respondent be directed to maintain the seniority of the applicants and respondent no. 3 in accordance with the settled law and further to promote the applicants as Assistant Matron from 19.09.2012 as applicant no. 1 is senior to the respondent no. 3 and to give further promotion as Nursing Superintendent to applicant no. 1 and to consider the case of the applicant no. 2 for promotion as Assistant Matron on the vacant post of Prem Kumari and grant her the promotion as the applicant no. 2 is legally entitled as per seniority to be promoted as Asstt. Matron.

With further prayer that the illegal promotion as Asstt. Matron of respondent no. 4 may kindly be set aside and further the order of additional charge of Nursing Superintendent granted in pursuance of the DPC dated 07.08.2015 may kindly be set aside and the applicants being senior be granted the additional charge.

With a further prayer that the seniority list issued by the official respondents vide which respondent no. 5 and 6 who have been promoted as Sister Tutor and have left the cadre of Nursing Sister, have been adjusted above the applicants in violation of the provisions of natural justice without deciding the objections of the applicants further in violation of the settled law as the respondent no. 6 is junior to the applicant no. 2 still she is adjusted above the applicants in violation of the settled principle of law and the order of this Hon'ble Court, may kindly be set aside in the interest of justice.

Further for a direction that seniority of the Nursing Sisters be fixed after adopting the judgment in case of **Ajit Singh Januja & Ors. Vs. State of Punjab** reported as **1996 (2) RSJ**, Page 1 and to grant promotion to the applicants as they are senior to respondent no. 4-Surinder Kaur."

2. After exchange of pleadings, matter came up for hearing.

On earlier occasion, after noticing the plea raised by learned counsel for the applicants that the official respondents by granting the benefit of reservation, promoted the persons junior to the applicants, this

Court granted time to respondents to address on this issue. Thereafter, on another date, again time was granted whether the respondents have followed the catch-up rule by following ratio laid down in case of **Suraj Bhan Meena Vs. State of Rajasthan**, 2011(1) SCC 467 or not?

3. Today Mr. Arvind Moudgil, learned counsel for the official respondents seeks permission to file an affidavit wherein in para 3, they have clarified that with regard to reservation in promotion/seniority, the matter is under consideration with the Personnel department of U.T Chandigarh. No decision has since been received. As and when opinion is received, seniority will be re-fixed, if required. For better appreciation, para 3 of the affidavit reads as under:-

"3. It is further submitted that since the Chandigarh Administration has sought clarification with regard to reservation in promotion/seniority which is under consideration with DOPT, and as & when a decision is communicated to this department, the seniority will be re-fixed, if required."

4. Based thereupon, Mr. Moudgil, learned counsel for the official respondents submitted that in view of the fact that the matter is pending under consideration with the Personnel Department of Chandigarh Administration on this issue, therefore, this petition be disposed of at this stage.

5. Learned counsel for the applicants did not dispute this fact, however, she submitted that some time be fixed so that they may decide the claim of the applicants in the light of the ratio laid down in case of Suraj Bhan Meena (supra)

6. In the light of the above noted fact that issue with regard to catch-up rule has already been crystallized by the Lordship in case of Suraj Bhan Meena case (supra) and based thereupon, the official respondents have already sought clarification from Personnel

department, U.T, Chandigarh, we dispose of the present O.A by granting one month's time to the official respondents to expedite the matter and take final call to ventilate the grievance of the applicants in accordance with ratio laid down in above noted case.

7. The present O.A is disposed of in above terms. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 30.01.2018.

`jk'

