
(1973) 02 P&H CK 0023
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 146 of 1973

Manhor Lal Madan

APPELLANT

Vs

The State of Punjab and others

RESPONDENT

Date of Decision : 20-02-1973

Acts Referred:

Constitution of India, 1950 — Article 309

Citation : (1973) 02 P&H CK 0023

Hon'ble Judges : Pritam Singh Pattar, J

Bench : Single Bench

Advocate : Kuldip Singh with Mr. R.S. Mongia, for the Appellant; J.S. Narang, for the State of Punjab and Respondent No. 2 and Mr. J.L. Gupta with Mr. Karminder Singh, for Respondents 3 and 4, for the Respondent

Final Decision : Dismissed

Judgement

Pritam Singh Pattar, J.—This is a writ petition filed by Manohar Lal Madan Dairy Extension Officer, Bhatinda, under Articles 226/227 of the Constitution to issue a writ in the nature of certiorari quashing the order dated December 19, 1972 of his reversion from the post of Dairy Extension Officer to that of Dairy Extension Assistant and to direct the respondents to declare him senior to Daljit Singh, respondent 4.

2. The facts of this case are that the petitioner was appointed as Dairy Extension Assistant in the Anima Husbandry Department of the Punjab Government by order dated January 1, 1962 and he joined the service as such on January 9, 1962. By the same order, Daljit Singh (respondent 4) was also appointed as Dairy Extension Assistant but he joined the service on January 10, 1962. The petitioner and the respondents 3 and 4 were governed by the Punjab Civil Veterinary Department Subordinate Service Rules, 1933 (hereinafter referred to as the 1933 Rules). However, in the year 1964, a notification was issued by the State of Punjab creating a new Dairy Development Department under the charge of Milk Commissioner and the petitioner and respondents 3 and 4, who were then

holding the posts under the Dairy Section of the Animal Husbandry Department, were transferred to the new department. However, even after the creation of the Dairy Development Department, no separate statutory rules under Article 309 of the Constitution have been framed and the petitioner and the respondents 3 and 4 continued to be governed by the above said 1933 Rules.

3. By order dated October 13, 1969, copy of which is Annexure "A" to the writ petition, the petitioner, Daljit Singh respondent 4 and one Gurdev Singh were promoted to Class II posts of Dairy Extension Officers wherein he was shown junior to Daljit Singh. On his enquiry he was informed that the inter-se seniority between him and Daljit Singh, respondent, had been fixed on the basis of selection made by the Subordinate Services Selection Board. Again by order dated July 7, 1970, Hardev Singh, respondent 3, who was working as Dairy Inspector was also promoted to the post of Dairy Extension Officer Class II. By an order dated October 5, 1971 the President of India merged the cadres of Dairy Extension Assistants and that of the Dairy Inspectors into one cadre with effect from 1st February, 1968 and the copy of that order is Annexure "B" to the petition. By an executive order the State of Punjab decided that vacancies of Class II Service of the Dairy Development Department were to be filled up 2/3rd by way of promotion and 1/3rd by direct recruitment. By order dated December 19, 1972, whose copy is Annexure "D", the Punjab Government directed that after the expiry of six months on his ad-hoc promotion in PVS Class II on December 31, 1972, he would revert and the additional charge of this post will be held by Amrik Singh, Project Implementation Officer Bhatinda. The petitioner, therefore, filed this writ petition alleging that he is senior to Daljit Singh as Dairy Extension Officer because he joined the service on January 9, 1962 while Daljit Singh joined the service on January 10, 1962 and, therefore, he should have been reverted and that the respondent may be directed to declare him as senior and that the order of his reversion, Annexure "D" may be quashed as being illegal.

4. Notice of this petition was issued to the respondents. The State of Punjab, respondent 1, admitted the factual position stated in the writ petition. However, it was pleaded that Gurdev Singh and Daljit Singh respondent No. 4 were promoted in PVS Class II on regular basis but the petitioner was appointed on six monthly basis till a substitute in his place was recommended by the Punjab Public Service Commission whichever was earlier, that the Punjab Public Service Commission declared Gurdev Singh and Daljit Singh to be suitable for appointment as Dairy Extension Officer, that the petitioner was never promoted on regular basis and he had no right to the post and was validly reverted as Dairy Extension Assistant. It was admitted that though an order for merging the cadre of Dairy Extension Assistants and Dairy Inspectors was issued on October 3, 1971 but it was not implemented uptill now inasmuch no combined seniority list of both these cadres has been prepared. The State Government decided that 1/3rd posts of the Dairy Extension Assistants may be filled in by direct recruitment and 2/3rd may be filled by promotion in the ratio of 50 50, as

amongst the Dairy Inspectors and Dairy Extension Assistants. The next vacancy according to them is to be given to the eligible Dairy Inspector and the post of Dairy Extension Officer in which the petitioner was promoted on ad-hoc basis is to be sent to the Punjab Public Service Commission for direct recruitment. I was averred that Daljit Singh was senior to the petitioner in the cadre of Dairy Extension Assistants on the basis of the seniority fixed by the Subordinate Services Selection Board at the time of their selection and that seniority has to be maintained. It was prayed that there was no substance in the writ petition and the same may be dismissed.

5. Similar was the return filled by the Milk Commissioner, respondent 2. He further stated that on the enquiry made by the petitioner, he was informed vide office letter dated December 19, 1969 that his seniority was fixed below Daljit Singh, respondent 4 keeping in view the order and merit fixed by the Subordinate Services Selection Board. To the same effect is the reply filed by Daljit Singh, respondent 4.

6. Annexure "A" to the writ petition is the copy of the order dated October 13, 1969 of the Government whereby Gurdev Singh, Daljit Singh respondent 4 and M.L. Madan, petitioner, who were Dairy Extension Assistants were promoted to PVS Class II Service which is a gazetted post. Para 2 of this letter reads as follows:--

Sarvshri Gurdev Singh, and Daljit Singh, Dairy Extension Assistants are temporarily promoted for six months or till the approval of the Punjab Public Service Commission, whichever is earlier. The promotion of Shri M.L. Madan, Dairy Extension Assistant is purely temporary for a period of six months or till the appointment of a candidate selected by the Punjab Public Service Commission against this post, whichever is earlier. They are liable to be reverted at any time.

It is, thus, clear from this order that Daljit Singh respondent was promoted on a regular basis, while the petitioner was appointed on an ad-hoc basis and his appointment was purely temporary for a period of six months and he had so right to the post.

7. The impugned order dated December 19, 1972 of the Government, whose copy is Annexure "D" to the petition lays down:--

The Governor of Punjab is pleased to order that after the expiry of period of six months of ad-hoc promotion of Shri M.L. Madan, Dairy Extension Officer in PVS Class II on 31st December, 1972, the additional charge of this post will be held by Shri Amrik Singh, Project Implementation Officer in PVS Class I, Bhatinda

This order shows that the Government did not propose to extend his period of promotion beyond 31st December, 1972. His was an ad-hoc appointment on six monthly basis in PVS Class II and his last term of extension expired on

December 31, 1972 and no further extension was granted to him. It is not a case of his reversion because he was never appointed on regular basis and had no right to the post.

8. Against the promotions of Gurdev Singh, Daljit Singh, respondent 4 and M.L. Madan, petitioner, vide order dated October 13, 1969, Annexure "A", one Shri Puran Singh Kohli, Dairy Inspector, filed Civil Writ No. 2903 of 1970 (Puran Singh Kohli v. The State of Punjab and others CW No. 2903 of 1970) which was decided by order dated November 14, 1972 of Hon"ble D.S. Tewatia J. wherein it was observed that the appointment of Madan Lal petitioner (who was respondent 5 in that writ petition) made on six month basis was extended in June 1972 and the extended period would expire on December 31, 1972, that he was working against a post to be filled by direct recruitment and, therefore, the Punjab State were directed to make arrangement to fill in the post by direct recruitment before December 31, 1972 as the continuance in service beyond that date on ad-hoc basis, would be a clear abuse of power on the part of the State Government and his appointment after December 31, 1972 will be considered as illegal. No appeal against this order was tiled by the petitioner and he accepted this judgment of the High Court to be correct. The direction in that case by the High Court to the Punjab State was not to allow him to continue on ad hoc basis on that post after December 31, 1972 and therefore, the respondent 1 was bound to revert, him. Consequently, the reversion of the petitioner cannot be said to be illegal.

9. The learned counsel for the petitioner then argued that in the aforesaid writ petition (C. W. No. 2903 of 1970) (supra), the letter dated October 5, 19/1 of the Punjab Government, whose copy is Annexure "B" to the writ petition whereby the posts of Dairy Extension Assistants and Dairy Inspectors, were merged w.e.f. 1st February, 1963 was not brought to the notice of the Court and, therefore, that decision is not correct This contention is hypothetical and is rejected. The petitioner could raise the plea regarding this Annexure "B" in that writ petition hut he did not do so and that decision is binding on him and also the State Government.

10. The firs" convention raised by Shri Kuldip Singh learned counsel for the petitioner is that the petitioner is senior to Daljit Singh as Dairy Extension Assistant because both of them were appointed as such by order dated 1st January, 1962 and he joined the past on 9th January, 1962, whereas Daljit Singh Respondent 4 joined the post on 10th January, 1962. This factual position is admitted by the respondents. The Dairy Development Department was previously a part of the Animal Husbandry Department the of State of Punjab, and the petitioner and other employees of the Department were governed by the 1933 Rules. In the year 1964 by a notification issued by the State of Punjab a new department namely Dairy Development Department was created under the charge of the Milk Commissioner, Punjab and the petitioner and respondents 3 and 4 who were holding the posts under the Dairy Section of the Animal

Husbandry Department were transferred to the new Department This Dairy Development Department came into existence the in year 1964 but no separate statutory rules under Article 309 of the Constitution relating to the terms and conditions of the employees of the new Department have been framed uptill now and the result is that the employees of the new Department continued to be governed by the aforesaid 1933 Rules of the Veterinary Department. It was admitted by the respondents in their return that the petitioner and the respondents 3 and 4 are governed uptill now by the aforesaid 1933 Rules

11. The learned counsel for the petitioner relied on Rule 9 of the 1933 Rules to show that the petitioner was senior to Daljit Singh respondent as Dairy Extension Assistant as he joined service one day earlier to him. Rule 9 of these Rules lays down:--

9. The seniority of members of the Service, shall, in each class of posts shown in Appendix B, be determined by the dates of their substantive appointment to such posts.

There is also a proviso to this rule which gives mode of determining seniority of the members of the Service if two or more of them are appointed on the same date. This rule determines the seniority of confirmed members of the Punjab State Subordinate Service of the Civil Veterinary Department. It is admitted that both the petitioner and Daljit Singh, respondent 4, are not yet confirmed as Dairy Extension Assistants and, therefore, this rule 9 (supra) does not apply at all in determining their inter-se seniority because this rule deals with the seniority of the confirmed subordinate employees of the Veterinary Department. It is strange that no rules have been framed regarding the terms and conditions which was created in the year 1964 and this shows the inefficiency of the Department.

12. Annexure "A" to the return of respondent 2, is the letter dated September 7, 1961, written by the Secretary. Subordinate Services Selection Board, Punjab, to the Director, Animal Husbandry, Punjab, sending the list of 10 approved candidates who were recommended in order of merit for the post of Dairy Extension Assistants and it shows that the name of Daljit Singh, respondent, was recommended at Serial No. 3 while that of Manohar Lal, petitioner, was recommended at Serial No. 5, In their letters dated 16th March, 1956 and 24th November, 1962, whose copies are Annexures "B" and "C" to the return of respondent 2, show that the Government had directed that order of merit suggested by the Punjab Public Service Commission and also the Subordinate Services Selection Board will be maintained and the candidates should be appointed in the order recommended by them. It is, thus, clear that Daljit Singh, respondent 4, was senior to the petitioner as Dairy Extension Assistant, as recommended by the Subordinate Services Selection Board. This seniority has to be maintained by the Department and cannot be disturbed by it.

13. The petitioner had been inquiring about the seniority position in the cadre of Dairy Extension Assistants and he was informed vide letter dated November 26,

1969, whose translation is Annexure "D" to the return of the Milk Commissioner, Punjab, (respondent 2), that his seniority among the Dairy Extension Assistants was below Daljit Singh. He again sent his representation stating that he joined the service on 9th January 1962 (Forenoon) while Daljit Singh joined service on 10th January, 1962 and therefore, he was senior to him and he may be informed of his seniority after checking the records, (vide translation whose copy is Annexure "E" to the return of respondent 2). Respondent 2 informed the petitioner vide his letter dated 29th December, 1972 whose translation is Annexure "F" to the return that his seniority had been fixed in accordance with the merit list prepared by the Subordinate Services Selection Board, Punjab, Chandigarh. All these facts are mentioned in paras 9 and 10 of the affidavit of respondent no. 2. This writ petition was filed by the petitioner on 9th January, 1973, i.e. after more than three years of the intimation sent to him by the Department that he was junior to Daljit Singh, respondent no. 4. Thus, even his suit to contest all seniority would have been barred by the limitation. In *State of Madhya Pradesh and another v. Bhailal Bhai* AIR 1954 SC 1006, it was held :--

The provisions of the Limitation Act do not as such apply to the granting of relief under Article 226. However, the maximum period fixed by the Legislature as the time within which the relief by a suit in a civil court must be brought, may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured. The Court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the Court to hold that it is unreasonable.

In *Jasmer Singh v. The Union of India*. 1970 SLR 723, it was held that even in cases involving the infringement of fundamental rights litigants must approach the Court without any semblance of delay and that the Court should decline relief to those who approach it after inordinate delay.

14. It is well settled law that the jurisdiction of the High Court to issue writ under Article 226 of the Constitution of India is discretionary and extraordinary. A petition for a writ of mandamus under Article 226 must be made without any delay and if the petition is filed after inordinate and unreasonable delay, the Court should refuse to grant any relief to the writ petitioner. This writ petition which was filed after a lapse of more than three years to contest the seniority by the petitioner vis-a-vis respondent No. 4, must, therefore, be dismissed on account of laches. It is well settled law that the Court should refuse to use its discretionary power to issue a writ of mandamus in favour of a party who is guilty of laches and unreasonable delay.

15. The learned counsel for the petitioner contended that both the petitioner and the respondent No. 4 were appointed as Dairy Extension Assistants by order dated 1st January, 1962, that the petitioner took charge of the post on 9th January, 1962 and the respondent No. 4 took the charge of the same on 10th January, 1962 and, therefore, he was senior to him. In support of his contention,

he relied on Dr. Amarjit Singh Ahluwalia v. The State of Punjab 1969 Cur LJ 918. In that case the question of interpretation was of the following rule of P.C.M.S. Class I cadre regarding fixation of seniority:--

On receipt of your option, your seniority In the P.C.M S. I cadre will be fixed in accordance with the length of your continuous service from the date of your appointment. This is, of course, subject to the condition that your seniority in the Public Health cadre vis-a-vis other Officers of that cadre will not be disturbed.

The question involved in this ruling was : What was the meaning of "length of continuous service" and the "date of appointment" in the aforesaid rule. It was held:--

The only permissible interpretation is that the length of service will start from the date the officer begins service on the post in that cadre and that necessarily means the date of his joining the appointment.

This authority is distinguishable and has no application to the facts of this case. The only point for determination in this ruling was interpretation of the words "length of continuous service" and "the date of appointment". In the instant case both the petitioner and the respondents 3 and 4 have not yet been confirmed as Dairy Extension Assistants. No rules have been framed by the Government to determine the seniority of unconfirmed non-gazetted officials of the Dairy Development Department. On the other hand, the instructions issued by the Government as discussed above, showed that the seniority of such officials as recommended by the Subordinate Services Selection Board has to be maintained and should not be disturbed by the Department. For all these reasons it is held that the contention of the petitioner that he is senior to Daljit Singh, respondent, is without force and is rejected.

16. The next contention raised by the learned counsel for the petitioner was that according to letter dated October 5, 1971, whose copy is Annexure "B" to the writ petition, the cadre of Dairy Inspectors and Dairy Extension Assistants was merged w.e.f. 1st February, 1968 that this letter had the force of statutory rules framed under Article 309 of the Constitution but no seniority list has been prepared and, therefore, a writ of mandamus should be issued so the Government to prepare a seniority list and then review all cases of promotion made w.e.f 1st February, 1968. Annexure "B" dated October 5, 1971 is letter written by the Deputy Secretary to Government. Punjab, Development, Department to the Milk Commissioner stating that the President of India was pleased to convert 8 posts of Dairy Inspectors and II posts of Dairy Extension Assistants into the cadre of Dairy Extension Assistants w.e.f. 1st February, 1968 and out of these 19 posts of Dairy Extension Assistants, six posts were in the pay scale of Rs. 200-15 380/20 500 (Grade I) and remaining 13 posts in the scale of Rs. 160-10-220/15 400 (Grade II). It was also directed that the posts created in these cadres after 1st February, 1968 should also be divided in Grade I and Grade II in the ratio of 1/3rd and 2/3rd respectively. In para 2 of this letter it

was mentioned that the President of India was further pleased to accord sanction to the grant of pay scale of Rs.200 15-380/20-500 (Grade I) to Shri Satnam Singh, Dairy Extension Assistant with effect from 25th June, 1970. In para 12 of the return filed by respondent 2, it is mentioned that this letter (Annexure "B") was received by them but the joint seniority list had neither been circulated nor finalised so far and the matter has been in correspondence with the Government. In the return of respondent 1, it was stated that although this letter was issued on October 5, 1971, it has not been implemented inasmuch no combined seniority list of both these cadres has been prepared. This Annexure "B" is an executive order and it is alleged that it has been violated. This order (Annexure "B") was not issued under any statute and by no stretch of imagination can it have the force of statutory rule under Article 309 of the Constitution of India. This order did not confer any legal right on the petitioner unless the joint seniority was prepared, because the order could be withdrawn by the Government at any time. It is well settled law that no writ petition lies for the violation of an administrative order and in this connection is any authority is needed, reference may be made to G.J. Fernandez Vs. State of Mysore and Others, where in it was held:--

In order that such executive instructions have the force of statutory rules it must be shown that they have been issued either under the authority conferred on the State Government by some statute or under some provision of the Constitution providing therefore. There is no statute which confers any authority on the State Government to issue rules in matters with which the Mysore Public Works Department Code is concerned. Thus the instructions contained in the Code are mere administrative instructions and not statutory rules. Therefore even if there has been any breach of such executive instructions that does not confer any right on any member of the public to ask for a writ against Government by a petition under Article 226. It is a matter between the State Government and its servant.

In the instant case the order (Annexure "B") has not been issued under the authority conferred on the State of Punjab by some statute or some provision of the Constitution of India providing therefor. This order is not referable to any statute and, therefore, its breach is not justiciable in Court and no writ of mandamus as alleged by the counsel for the petitioner can be issued.

17. The learned counsel for the petitioner contended that this order is a complete Code in itself and the cadre of Dairy Inspectors and Dairy Extension Assistants stood merged with effect from 1st February, 1968 and the promotions could not be made by prescribing the percentage of Dairy Inspectors and Dairy Extension Assistants and consequently the fundamental right regarding promotion of the petitioner was affected and it violated Article 16(1) of the Constitution of India Article 16(1) says--

There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

In support of his contention he relied on the following observations made at page 140 in *Commissioner of Police v. Gordhandas Bhanji* 1952 (III) SCR 135:--

Public orders made by public authorities are meant to have public effect and are intended to effect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.

In *T. Devadasan Vs. The Union of India (UOI) and Another*, , at page 189 (in para 20) it was observed as follows:--

Having held that the carry forward rule as modified in 1955 is unconstitutional, the question which arises is as to the relief which we should grant to the petitioner. Mr. Gopalakrishnan made it clear that all that he wants is a declaration about the invalidity of the rule and that he hopes that the department concerned will implement the decision of this Court in an appropriate way. Indeed, no further relief can be given to him because the persons who have been appointed and who may be affected by this decision have not been joined as respondents in this petition.

He also relied on *Roshan Lal Tandun v. Union of India* 1967 SLR 812. The facts of this case were that there were two different sources of recruitment to the posts of Train Examiners Grade "D" i.e., one from Apprentice Train Examiners and other by skilled artisans. Further promotion from grade "D" to grade "C" was made from integrated cadre on basis of seniority-cum-suitability. By notification dated 27th October, 1965, 80% of vacancies in grade "C" were reserved for Apprentice Train Examiners who had been absorbed in grade "D" before 31 March 1966. On these facts it was held that this notification dated 27th October 1965 was violative of Articles 14 and 16 of the Constitution because discrimination could not be made in favour of recruits from one source against the recruits from the other source in the matter of further promotion, as once they are absorbed in one cadre, they formed one class. In *S.M. Pandit and another v. State of Gujarat* 1972 SLR 79, it was held that the Government is not competent to discriminate between directly recruited employees and promotees in the matter of further promotion forming one cadre. To the same effect is the law laid down by the Supreme Court in *State of Mysore v. M.H. Krishna Murthy and others* 1972 SLR 332. All these rulings are distinguishable and have no application to the facts of this case. In all these rulings the various wings of the service were integrated and merged and a joint cadre was prepared and thereafter quota of percentage for purposes of further promotion was fixed in respect of those various wings of the service, i.e. direct recruits and promotees, and, therefore, these orders were struck down as violative of Articles 14 and 16 of the Constitution. But in the instant case the joint cadre of Dairy Inspectors and Dairy Extension Assistants has not yet been made and joint seniority list has not yet been prepared and, therefore, the question of violation of any legal right of the petitioner did not arise. Since the joint seniority list has not yet been prepared therefore, the seniority of the petitioner and other members is not known at this stage.

Moreover, the other Dairy Assistants who are not party to this writ petition are not before the Court and all the facts are not before the Court. Therefore, the writ of mandamus cannot be issued. In *Karnal Kaithal Co-operative Society v. The State* 1958 PLR 425, it was held:--

There are four prerequisites essential to the issue of a writ of mandamus: (1) whether the petitioner has a clear and specific legal right to the relief demanded by him ; (2) whether there is a duty imposed by law on the respondent; (3) whether such a duty is of an imperative ministerial character involving no judgment or discretion on the part of the respondent; and (4) whether the petitioner has any remedy, other than by way of mandamus for the enforcement of the right which has been denied to him.

Remedy by way of mandamus is in no sense a curative or preventive remedy. Mandamus is a positive or remedial process not a negative or preventive one. It is not the province of mandamus to prohibit the passing of an order or to review one which has already been passed, or to undo an act which has already been performed, or to revise action which has already been taken, or to restrain or prevent an improper interference with the rights of petitioners. It is a coercive and not a corrective writ; it stimulates the lethargic into action ; It commands performance. It cannot lie to restrain action

The legal position, therefore. Is that a writ of mandamus can only be Issued if the writ-petitioner has a legal right to the relief demanded by him and there is a duty Imposed by law on the respondent to grant that relief and he has failed to discharge that statutory obligation. No writ petition lies for the violation of mere executive order/instructions. In order that such executive instructions have the force of statutory rules, these must be shown to have been issued by the State Government under the authority conferred on it by some statute or under some provision of the Constitution of India. If the executive instructions have not the force of statutory rules being issued under some statute or some provision of Constitution, their violation is not justiciable in Court and no writ of mandamus will be issued in favour of the writ petition. In the instant case the petitioner has no clear and specific legal right to the relief claimed by him because upto now no joint cadre of Dairy Inspectors and Dairy Extension Assistants has been prepared and consequently, no writ of mandamus as prayed for can be issued in his favour.

18. In para 13 of the return of respondent No. 1, it was stated that the State Government decided that 1/3rd posts of Dairy Extension Officers may be filled by direct recruitment and 2/3rd of the posts may be filled by promotion in the ratio 50 : 50 as amongst the Dairy Inspectors and Dairy Extension Assistants. This executive decision was taken so as to provide equal chances to Dairy Inspectors and Dairy Extension Assistants who have identical pay scales. This decision of the Government was conveyed to the Respondent No. 2 in the month of August, 1970 as is clear from para 13 of his return. It was to apply to future appointments and not to promotions already made to the posts of Dairy Extension Officers which is a class II post. Gurdev Singh and Daljit. Singh

respondent No. 4 were promoted by order dated October 13, 1969, whose copy is Annexure "A" to the writ petition and consequently, the aforesaid instructions do not apply to them. Hardev Singh, respondent No. 3, was promoted in July, 1970 as given in para 17 of the writ petition and, therefore, the aforesaid instructions do not apply to him. In *S.G. Jaisinghani v. Union of India*, 1967 SLR 482 there was the question of interpretation of the following rule No. 4 to determine the seniority of promotees and direct recruit Income Tax Officer Class I. This rule 4 as given at page 496 of this ruling reads as follows:--

Subject to the provisions of Rule 3, Government shall determine the method or methods to be employed for the purpose of filling any particular vacancies, or such vacancies may require to be filled during any particular period, and the number of candidates to be recruited by each method.

In accordance with this rule, the Government fixed the quota of promotion of direct recruits and promotees which were the two sources of recruitment. The promotees were given seniority with weightage over direct recruits of the same year and three previous years. On these facts it was held:--

We are of opinion that having fixed that quota in exercise of their power under rule 4 between the two sources of recruitment, there is no discretion left with the Government of India to alter that quota according to the exigencies of the situation or to deviate from the quota, in any particular year, at its own will and pleasure. As we have already indicated, the quota rule is linked up with the seniority rule and unless the quota rule is strictly observed in practice it will be difficult to hold that the seniority rule i.e., rule 1 (f)(iii) & (iv), is not unreasonable and does not offend Article 16 of the Constitution. We are accordingly of the opinion that promotees from Class II, Grade III to Class I, Grade II Service in excess of the prescribed quotas for each of the years 1951 to 1956 and onward have been illegally promoted and the appellant is entitled to a writ in the nature of mandamus commanding respondents nos, 1 to 3 to adjust the seniority of the appellant and other officers similarly placed like him and to prepare a fresh seniority list in accordance with law after adjusting the recruitment for the period 1951 to 1956 and onwards In accordance with the quota rule prescribed in the letter of the Government of India No. F. 24(2) Admn.I.T./51 dated October 13, 1951.

This ruling does not help the petitioner. In the instant case the Dairy Extension Officers are to be recruited in the ratio of 1/3rd by direct recruitment and 2/3rd by promotion. As between the promotees, it is ordered that 50 percent posts out of their quota shall go to Dairy Inspectors and 50 percent to Dairy Extension Officers. The two Services have not yet been merged and a joint cadre has not yet come into existence. This order by no stretch of imagination can be said to be illegal. After the passing of this order in August, 1970, no post had gone to a direct recruit. Therefore, the next post had been ordered to be filled by direct recruitment and this post had been advertised by the Public Service Commission Punjab.

19. The reversion of the petitioner is legal and valid. Moreover, he had no right to the post as the Government simply refused to extend his post beyond 31 December, 1972 in pursuance of the direction given by the High Court in Civil Writ No. 2903 of 1970 decided on 14, November, 1972. This decision was binding on the petitioner and respondents 1 and 2. Moreover, no relief contradictory to the orders passed in the aforesaid writ petition can be granted in this case to the petitioner.

20. For the reasons given above, it is held that there is no force in this writ petition and the same is dismissed. There will be no order as to costs in the circumstances of the case.