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**(2014) 07 P&H CK 0074**

**In the Punjab And Haryana At Chandigarh**

**Case No : CWP Nos. 10592, 10685 and 10683 of 1993**

Pardeep Manuja

APPELLANT

Vs

Punjab National Bank

RESPONDENT

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**Date of Decision : 14-07-2014**

**Acts Referred:**

**Citation : (2014) 07 P&H CK 0074**

**Hon'ble Judges : Sabina, J**

**Bench : Single Bench**

**Advocate : H.C. Arora, Advocate for the Appellant; G.S. Bajwa, Advocate and Santosh Sharma, Advocate for the Respondent**

**Final Decision : Dismissed**

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## **Judgement**

Sabina, J.—Vide this order, above mentioned three petitions would be disposed of as the controversy involved in all the cases is the same. Facts are to be taken from CWP No. 10685 of 1993.

2. Case of the petitioners, in brief, is that they were working with the respondent-bank as Accountants. On 7.10.1982, bank notified certain vacancies for the posts of Managers. Petitioners applied for the said posts and were selected on 31.12.1982 and were appointed as officiating Managers. After coming in force of Officers' Service Regulations w.e.f. 1.1.1983, the existing cadres were re-categorized. In the seniority list for Middle Management Grade Scale-II, names of the petitioners were not shown but the officers, who were promoted later than the petitioners, were shown against Sr. No. 277 and below. Names of the petitioners were shown in lower category of officers i.e. Junior Management Grade Scale-I. S. Sainathan, who was similarly situated as the petitioners, filed a writ petition in the High Court of Andhra Pradesh for his proper categorization as Manager, Middle Management Grade Scale-II w.e.f. 3.2.1981. The said writ petition was allowed vide Annexure P-4. SLP filed against the said judgment was dismissed vide Annexure P-6. Case of the petitioners was covered by the decision Annexure P-4. Hence, the writ petitions were filed by the petitioners.

3. Learned counsel for the petitioners has submitted that the case of the petitioners was covered by the decision Annexure P-4 and the writ petitions were liable to be allowed. Case of the petitioners was not covered by the decision of the Apex Court in In the Matter of Shri K.B. Sharma and Another Vs. Union of India and Another, as claimed by the respondents. In the case of K.B. Sharma (supra), the challenge was to the regulations and not inter se seniority of the officers. In this regard, learned counsel has placed reliance on the decision of the Delhi High Court in Punjab National Bank and Another Vs. R.K. Jain, wherein, it was held as under:-

The decision in K.B. Sharma case (supra) has no application to the present case as what was considered in K.B. Sharma's case (supra) was the legality of the regulations framed by the appellant herein and not the question of inter se seniority of officers. On this ground the review application filed by the appellant herein in S. Sainathan's case (supra) was dismissed and the decision in the case of K.B. Sharma's case (supra) was distinguished.

4. Learned counsel for the respondents, on the other hand, has submitted that the case of the petitioners was covered by the decision of the Apex Court in K.B. Sharma's case (supra). Further in the present case, the petitioners had been merely appointed as officiating Managers in their own pay scales vide order Annexure P-2. Therefore, petitioners could not be said to have been promoted as regular Managers and could not be granted seniority for the period they have worked as officiating Managers. S. Sainathan had submitted his representation within 30 days requesting for his placement in Scale II under the OSR. Petitioners had, however, not submitted any representation and had accepted their placements in Grade-I in the year 1984 and had accepted the seniority list circulated from time to time. Petitioners never objected to the seniority list issued from time to time, whereas, S. Sainathan had raised specific objection and had challenged the seniority list and had filed the writ petition in the year 1984, whereas, the petitioners had filed the present writ petitions in the year 1993. Petitioners were confirmed as Accountants on 15.11.1982 and were appointed as officiating Managers on 31.12.1982 in their existing scales. Hence, the writ petitions were liable to be dismissed.

5. Petitioners by way of this writ petition want that the service rendered by them as officiating Managers be counted for the purposes of seniority. Petitioners have placed reliance on the decision given by the Andhara Pradesh High Court, Annexure P-4, in support of their case, whereas, the respondents have placed reliance on the decision of the Apex Court in K.B. Sharma's case (supra), wherein, the regulations, whereby promotion policy was framed, were upheld. Petitioners were appointing as officiating Managers in their own pay scales. Therefore order Annexure P-2 cannot be construed as their promotion to the post of Managers. Although, petitioners had applied for the post of Managers and had been interviewed also but vide Annexure P-2, they had been merely transferred and posted to officiate as Managers in their own pay scales. In these

circumstances, the period of service rendered by the petitioners as officiating Managers in their own pay scales cannot be counted for the purposes of seniority. From the judgment Annexure P-4, it is not clear as to whether the said petitioner was working in his own pay scale or in the pay scale of Manager at the time of his appointment as officiating Manager. However, in the present case, petitioners were posted to officiate as Managers in their own pay scales. Therefore, the service rendered by the petitioners as officiating Managers in their own pay scales cannot be counted towards their seniority. Hence, the petitioners cannot draw any benefit from the judgment Annexure P-4. No ground for interference by this Court is made out.

6. Dismissed.