
(1969) 05 P&H CK 0043

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ No's. 441 of 1967 and 1675 of 1968 and L.P.A. No. 162 of 1968

Udey Singh Todar Singh

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 19-05-1969

Acts Referred:

Constitution of India, 1950 — Article 226, 227, 311

Citation : AIR 1971 P&H 284

Hon'ble Judges : Mehar Singh, C.J;P.C. Jain, J

Bench : Division Bench

Advocate : R.P. Bali, for the Appellant; R.S. Mittal, for the Respondent

Judgement

1. This judgment will dispose of Letters Patent Appeal NO. 162 of 1968, Udey Singh and Hari Bhagat, appellants, Hari Chand, State of Haryana, and State of Punjab, respondents 1 to 3, Civil Writ No. 441 of 1967, Udey Singh, petitioner, State of Haryana, Director of Agriculture, Haryana, and Hari Chand, respondents 1 to 3, and Civil Writ No. 1675 of 1968, Kidar Singh, petitioner, v. State of Haryana, State of Punjab, Director of Agriculture, Haryana, and Hari Chand, respondents 1 to 4, as the facts of all these three cases are the same. For the sake of facility of reference Udey Singh, Hari Bhagat and Kidar Singh will hereinafter be referred to as the petitioners, and Hari Chand and the others shown as respondents in the three cases will be hereinafter be referred to as the respondents.

2. The facts not having emerged clearly from the records of Letters Patent Appeal No. 162 of 1968 and Civil Writs Nos. 441 of 1967 and 1675 of 1968, we asked Mr. M. S. Jain, learned counsel for the State of Haryana, respondent, to file a list of seniority among Assistants as on September 12, 1963. E has filed with Letters Patent Appeal No. 162 of 1968 an affidavit of Mr. Gurmel Singh, Director of Agriculture, Haryana, respondent. With that affidavit has been filed the seniority list of assistants as on the date given above, and it is marked annexure

"RA-1", with which is also attached a list of vacancies of Head Assistants that occurred after September 12, 1963. In annexure "RA-1" the seniority of Assistants on September 12, 1963, so far as relevant for the purpose of these cases, has been shown in the manner-

Serial Name. Allocation.

1. Bhagat Singh Punjab.
2. Kidar Singh (Petitioner) Haryana.
3. Gurcharan Singh Punjab.
4. Ram Sarup Jain Haryana.
5. Alakh Niranjana Dass Haryana.
6. Sushil Chand Rishi Haryana.
7. Rikhi Ram Punjab.
8. Sita Ram Bali Haryana
9. Piara Singh Punjab.
10. Inder Nath Bhandari Haryana.
11. Dharam Vir Punjab.
12. Uday Singh (Petitioner) Haryana.
13. Jang Bahadur Haryana.
14. Gurbachan Singh Punjab.

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17. Hari Bhagat (Petitioner) Haryana

(Scheduled Caste)

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42. Hari Chand (Respondent) Haryana

(Scheduled Caste)

This was the seniority list of the Assistants in the former Punjab State before its reorganisation on and from November 1, 1966, under the provisions of the Punjab Reorganisation Act, 1966 (Act 31 of 1966).

3. On September 12, 1963, the Punjab Government in the Scheduled Casts and Backward Classes Department issued a letter, copy annexure "A-1" to Hari Chand

respondent's Civil Writ No. 2189 of 1967, decided on February 13, 1968, by a learned Single Judge, against whose order Udey Singh and Hari Bhagat, petitioners, have preferred Letters Patent Appeal No. 162 of 1968. In that letter, which was addressed to all the Heads of Departments, Commissioners of Divisions, Deputy Commissioners, the District and Sessions Judges, and the Registrar of the High Court, the Government said that "it has now been decided that except in the case of All Indian Services 10% of higher posts to be filled by promotion should be reserved for the members of Scheduled Cast, Scheduled Tribes and Backward Classes (9% for the members of Scheduled Casts and Scheduled Tribes and 1 per cent for the Backward Classes) subject to" the conditions (a) that the persons to be considered must possess the minimum necessary qualifications, and (b) that they should have at least satisfactory record of service. On January 14, 1964, the Punjab Government took a decision as conveyed in its letter, copy annexure "c" to Udey Singh petitioner's Civil Writ No. 441 of 1967, and in Clause (e) of paragraph 2 of it the Government said that "so far as Scheduled Casts/Tribes are concerned, the very first vacancy existing on/arising after the 12th September, 1963, should be treated as reserved for them only; and if no such official is available for promotion against the vacancy reserved for them in the first block of 10 vacancies, a candidate belonging to other Backward Classes may be selected in preference to the remaining officials against one such post only out of one hundred, since the reservation for other Backward Classes may not exceed 1 per cent. However, if Scheduled Casts/Tribes candidates are available to fill one out of every ten vacancies, the specific reservation in favour of other Backward Classes should be the 51st vacancy. " These facts are affirmed in the affidavit of Haryana Director of Agriculture, respondent, paragraphs 1 & 2, and in paragraph 2 it is further stated that "later on, vide letter No. 6872/4WGI-66/24917, dated 23-8-1966, the percentage of reservation for Scheduled Casts and Backward Classes was raised from ten percent to twenty per cent.

4. In the year 1964, three vacancies occurred in the cadre of Head Assistants. In the first vacancy Bhagat Singh No. 1 in the seniority list annexure "RA-1", was promoted as Head Assistant on April 1, in the second vacancy Kidar Singh petitioner, No. 2, was promoted as Head Assistant also on the same date, that is to say on April 1, and in the third vacancy Gurcharan Singh, No. 3, was promoted Head Assistant on June 1, 1964, Hari Chand respondent, respondent, at No. 42 in the seniority list, being a Scheduled Cast official, made representation in the wake of the made representation in the wake of the reservation made for Scheduled Castes in the matter of promotion and because of the reservation of the first vacancy out of ten for a Scheduled Caste candidate at the stage of promotion. This representation was against the promotions of the first three in the seniority list of Assistants. He succeeded in his representation against Gurcharan Singh, No. 3. He again represented on the same ground and succeeded against Kidar Singh petitioner, No. 2. He did not however, succeed against Bhagat Singh, at NO. 1 in the list. So Hari Chand respondent from No. 42

obtained the second vacancy which occurred on April 1, 1964, in place of Kidar Singh petitioner who was at NO. 2. The order giving him this advantage of over Gurcharan Singh, No. 2, on August 25, 1966.

Thereafter Udey Singh petitioner, No. 12, made a representation against the promotion of Hari Chand respondent, from No. 42, to the Punjab Government. A copy of that representation is annexure "G" to his civil Writ No. 441 of 1967. This dated December 31, 1966. In this, broadly, Udey Singh petitioner said that the Punjab Government instructions of September 12, 1963, making reservation for Scheduled Castes and Backward Classes were in contravention of Art. 16 (1) and (2) of the Constitution, that he was never given an opportunity of being heard before he was superseded, and that the promotion of Hari Chand respondent was liable to be quashed because he was not eligible for being promoted as Head Assistant not having fulfilled the qualifications for the post. On somewhat similar grounds Kidar Singh petitioner also made a representation against the promotion of Hari Chand respondent which was on January 30, 1967, and a copy of that representation is annexure "C" to his Civil Writ No. 1675 of 1968.

5. The position on October 31, 1966, was that among the first ten of the Head Assistants, there was to be one Classes. The first who should have been considered under the Punjab Government orders in this respect was Hari Bhagat petitioner, at No. 17, being the first Scheduled Caste Assistant, but he was passed over and the next Scheduled Caste Assistant was Hari Chand respondent, at No. 42. So, according to the orders of the Punjab Government, Hari Chand respondent came to be promoted as Head Assistant, but within the first ten vacancies for Head Assistants. At that time Udey Singh petitioner was at No. 12 in the seniority list of Assistants and could hardly have a change unless the eleven others senior to him were either promoted Head Assistants or eliminated on account of being unsuitable for promotion. However, Kidar Singh, petitioner was at No. 2 and he certainly had a grievance with regard to the promotion and placing above him of Hari Chand respondent from No. 42.

It was Udey Singh petitioner who first made representation against the promotion of Hari Chand respondent. The matter remained indisposed of till November 1, 1966, on which date the former Punjab State was divided into four parts, and the major parts that came into existence have been the new States in Punjab and Haryana, respondents. Annexure "RA-1" shows also the allocation of the Assistants in consequence of the division of the Punjab State. Of the Assistants then, these, so far as the present cases are concerned, have been allowed to Haryana-

1. Kidar Singh (petitioner).
2. Ram Sarup Jain.
3. Alakh Niranjana Dass.
4. Sushil Chand Rishi.

5. Sita Ram Bali.
6. Inder Nath Bhandari.
7. Udey Singh (petitioner).
8. Jang Bahadur.
9. Hari Bhagat (petitioner) (Scheduled Caste).

(Leaving out eight others allocated to Haryana State)****

18. Hari Chand (respondent) (Scheduled Caste). By that date the percentage of reservation having been raised to twenty per cent, a Scheduled Caste or Backward Class Official for the matter of promotion had to be in the first five vacancies. On 29-11-1966, a Division Bench consisting of S. B. Capoor and Gurdev Singh, JJ. , decided *Hira Lal v. Chief Conservator of Forests, Punjab*, Civil Writ No. 271 of 1966 (Punj). In that, cases under the orders of the Punjab Government making reservation for Scheduled Castes and Backward Classes for reserving the first vacancy for them from September 12, 1963, came in for consideration because the official whose promotion had been challenged had been given advantage under those orders. The learned Judges struck down paragraph 2 (3) of Punjab Government order as in its letter of January 14, 1964, copy annexure "C" to Udey Singh petitioner's Civil Writ No. 441 of 1967, and quashed the promotion of the official of a Scheduled Caste who had been promoted and given the first vacancy according to the orders of the Punjab Government making reservation for Scheduled Castes and Backward Classes as in the letters of which details have already been given.

After this judgment of the Division Bench of this Court, the representation made by Udey Singh petitioner was accepted by Haryana Government by its order of September 29, 1967, copy Annexure "A-4" to the petitioner of Hari Chand respondent, Civil Writ No. 2189 of 1967, and in consequence Hari Chand respondent was reverted to his position as an Assistant. The question of giving a vacancy to Scheduled Casts and Backward Classes according to the orders of reservation in their favour, referred to above was immediately before the Haryana Government and on the same date, that is to say, on September 29, 1967, Hari Bhagat petitioner, senior of the two Scheduled Caste Assistants, was promoted as officiating Head Assistant. It may be stated that even Hari Chand respondent had been promoted as officiating Head Assistant, and when he was reverted, he was in that position.

6. Before, however, the Haryana Government accepted the representation of Uday Singh petitioner and reverted Hari Chand respondent to his position as an Assistant, the former, on March 24, 1967, filed in this Court his Civil Writ No. 441 of 1967, seeking to have quashed the Government orders making reservation of certain percentage for appointments and promotions in favour of Scheduled Casts and Backward Classes and also the promotion of Hari Chand respondent according to the same. While that petition was pending, the reversion of Hari

Chand respondent came about on September 29, 1967. Thereupon Hari Chand respondent filed his Civil Writ No. 2189 of 1967 wherein he prayed that the order of reversion made against him be quashed. Of course to his petitioner Hari Bhagat, petitioners, party respondents. Kidar Singh petitioner made an application to be impleaded as a party respondent to the writ petition of Hari Chand respondent, but that application was dismissed.

7. In his Civil Writ No. 2189 of 1967 Hari Chand respondent, in paragraph 11, gave a seniority list in which he showed the names of eighteen persons of whom quite a number had already been promoted as Head Assistants. In that list he showed his own name at NO. 4, with the note in front of it that his seniority had been fixed above Kidar Singh petitioner at No. 2. He then showed Udey Singh petitioner, at No. 13, and Hari Bhagat petitioner, at NO. 18. The petitioner of Hari Chand respondent was of course opposed by the then respondents, Udey Singh and Hari Bhagat, present petitioners apart from other respondents, the States of Haryana and Punjab and the Director of Agriculture, Haryana. The learned Single Judge came to the conclusion that as Udey Singh petitioner was shown at No. 13 in that seniority list and even if one person above him, at NO. 11, who had refused promotion was excluded, he would still not come within the first ten for promotion among whom Hari Chand respondent as a Scheduled Caste official was to come and, therefore, Udey Singh petitioner could not possibly have been promoted as against Hari Chand respondent or his promotion could not possibly have been effected as against this respondent.

The learned Judge, therefore, set aside the order reverting Hari Chand respondent (Annexure "A-4" to his petition). The judgment and order of the learned Single Judge are of February 13, 1968, and it is against the same that Udey Singh Judge and Hari Bhagat, petitioners, have filed Letters Patent Appeal No. 162 of 1968. After the decision of the learned Single Judge, Kidar Singh petitioner filed his writ petition No. 1675 of 1968, on May 13, 1968, and he prayed therein "a writ in the nature of mandamus, directing the petitioner to be impleaded directing the petitioner to be impleaded as one of the respondents in Civil Writ No. 2189 of 1967 filed by Shri Hari Chand, respondent 4, be issued and it be further directed that the matter be re-opened and re-heard and the judgment of Mr. Justice Tek Chand passed on 13-2-1968, be reviewed after hearing the petitioner and the costs of this writ petition be also awarded to the petitioner. " It is a petitioner under Arts. 226 and 227 of the Constitution which is directed against the judgment and order, dated February 13, 1968, of Tek Chand, J. , Hari Chand respondent's Civil Writ No. 2189 of 1967. It also purports to be an application for review of that judgment and order. Obviously, the respondents to Civil Writ No. 441 of 1967 by Udey Singh petitioner, and to Civil Writ No. 1675 of 1968 by Kidar Singh petitioner, have opposed the grant of relief as prayed for in those petitions.

8. At the hearing of these cases we found it rather difficult to proceed with the list of seniority given in paragraph 11 of his petitioner by Hari Chand respondent

in his Civil Writ No. 2189 of 1967. It is first not clear whether is a list of seniority among Assistants alone or among Head Assistants alone. It appears to be a combination of both such cadres. Then it refers to personnel allocated both to Punjab and Haryana States. IT was rather difficult to follow the purpose in living of this list by Hari Chand respondent. The learned counsel for the parties in the three cases were quite unable to explain to us how that list was of any assistance in the decision of these cases. Once the facts of the cases are clarified, the matter is not really so complicated. It has, however, been made complicated by the manner in which the petition of Hari Chand respondent has been drafted and particularly as no explanation from where he obtained the list, as he has given in paragraph 11 of his petition, is forthcoming.

We, as already said above, therefore, called upon Mr. M. S. Jain Advocate representing the State of Haryana, respondent, to produce before us two lists, one, a seniority list of Assistants on September 12, 1963, and, another, a list of vacancies occurring thereafter. This he has done by filing those lists annexure "RA-1" with the affidavit of the Director of Agriculture, Haryana, respondent. The correctness of those lists has not been questioned before us. We have, therefore, proceeded to consider the arguments of the counsel for the parties on that basis. We have been quite clear that without such lists the cases were impossible of decision, the reasons begin, first, the seniority of the Assistants was not clear, second, the occurrence of vacancies in the cadre of Head Assistants was not clear, and, third it was not clear what exactly was the position for the master of promotion of Assistants as Head Assistants on or before October 31, 1966, and then on and after November 1, 1966, when the Assistants had been allocated to the divided parts of the former Punjab State. It is only on receipt of this information given in those two lists accompanying the affidavit of the Director of Agriculture, Haryana, respondent, that it has become possible to proceed with the arguments in these cases.

9. It has already been shown that while there was still the former Punjab State down to October 31, 1966, according to the orders of the then Punjab Government there was already one Scheduled Caste Assistant promoted as Head Assistant, who was Hari Chand respondent, and that by then no representation against the promotion of Hari Chand respondent had been made so far as the record of these three cases before us is concerned. It is possible that there might have been earlier representations either by Udey Singh petitioner or by Kidar Singh petitioner or by both, but those have not come before us, nor has the production of the same really any material bearing on the merits of the controversy in these three cases.

10. On and from November 1, 1966, the Haryana State having come into existence and Assistants having been allocated to it, the position of the Assistants, relevant for the purposes of these cases, on that date, was this-

1. Kidar Singh (petitioner).

2. Ram Sarup Jain. (on deputation)
 3. Alakh Niranjana Dass.
 4. Sushil Chand Rishi. (declines promotion).
 5. Sita Ram Bali.
 6. Inder Nath Bhandari.
 7. Uday Singh (petitioner).
 8. Jang Bahadur.
 9. Hari Bhagat (petitioner) (Scheduled Caste).
- (Leaving out eight others allocated to Haryana State)****
18. Hari Chand (respondent) (Scheduled Caste).

This was the position also on the date the reversion of Hari Chand respondent took place on September 29, 1967.

11. On and after November 1, 1966, there were four vacancies on April 1, May 1, May 8 and June 5, 1967, in the cadre of Head Assistants in the Haryana State Agriculture Department. On November 1, 1966, Hari Chand respondent (Scheduled Caste), No. 18, in the above list, Kedar Singh petitioner, No. 1 in that list, and Alakh Niranjana Dass, No. 3 in the same list, were already Head Assistants. Of them definitely Hari Chand respondent was officiating and probably so were the other two. Ram Sarup Jain, at No. 2 in that list, was on deputation, and Sushil Chand Rishi, at No. 4, had declined promotion. OF the four vacancies of Head Assistants, referred to above, occurring after November 1, 1966, the first, on April 1, went to Sita Ram Bali, at NO. 5 in the above list, the second, on May 1, to Inder Nath Bhandari, at No. 6, the third, on May 8, to Uday Singh petitioner, at No. 7, and the fourth, on June 5, 1967, to Jang Bahadur, at No. 8 in that list. So, by the time these vacancies had been filled by June 5, 1967, there was among the first five a Scheduled Caste Assistant, namely, Hari Chand respondent, promoted as Head Assistant and placed in the first position.

The reservation made in favour of the Scheduled Castes and Backward Classes was thus complied with and particularly in regard to the placing of Hari Chand respondent, a Scheduled Caste Assistant, in the first place, according to paragraph 2(e) of Government letter of January 14, 1964, annexure "C" to Uday Singh petitioner's Civil Writ No. 441 of 1967. The representation of Uday Singh petitioner against his supersession by Hari Chand respondent was pending when the judgment in Hira Lal's case, Civil Writ No. 271 of 1966, D/- 29-11-1966 (Punjab) was given by the Division Bench on November 29, 1966. It has already been pointed out that the learned Judges of the Division Bench struck down paragraph 2(e) in annexure "C", referred to above and quashed the promotion of the particular Scheduled Caste official to whom that case related. The decision of

the Division Bench is binding on this Bench and quite as much on the State of Haryana, respondent. In the wake of that decision the representation of Udey Singh petitioner was accepted and on September 29, 1967. Hari Chand respondent was reserved. There was also the representation of Kidar Singh petitioner against his supersession by Hari Chand respondent and the Under Secretary in the Agriculture Department of the Government of Haryana informed this petitioner by his letter of October 17, 1967, annexure "G" to Kidar Singh petitioner's Civil Writ No. 1675 of 1968, that his representation had been disposed of in the wake of Government's order in Memorandum No. 7139-Agr. 1-(III)67/24969 of September 29, 1967, whereby Hari Chand respondent had been reverted.

It has already been pointed out that on the reversion of Hari Chand respondent, the State of Haryana, respondent, in compliance with the reservation made in favour of the Scheduled Casts and Backward Classes, had on the very date, that is to say on September 29, 1967, considered the case of Hari Bhagat petitioner, another Scheduled Caste Assistant, at NO. 9 in the list in the paragraph immediately above this paragraph, and thus senior to the only other Schedule Caste Assistant, Hari Chand respondent. It appears that between the earlier promotion of Hari Chand respondent of June 1, 1964, and September 29, 1967, the senior Scheduled Caste Assistant, Hari Bhagat petitioner, had improved his position. The State of Haryana, respondent, when considering the question of promotion of a Scheduled Caste Assistant on September 29, 1967, had obviously to give every consideration to the claims of the Scheduled Caste Assistant to previously passed over, that is to say, Hari Bhagat petitioner.

On consideration of the case of the last-mentioned official it found that he had come up to the standard for promotion and so it proceeded to promote him as an officiating Head Assistant on that very date. So, on September 29, 1967, one Scheduled Caste Assistant had been promoted as officiating Head Assistant in compliance with the reservation made for the promotion of Scheduled Castes and Backward Classes. Hari Bhagat petitioner has made no grievance in regard to his placing. In the circumstances, the question is not that promotion of a Scheduled Caste Assistant has not been made in accordance with the reservation, but the question is just this, whether the reversion of Hari Chand respondent was valid and according to law?

12. The learned Single Judge was of the opinion that Udey Singh petitioner was placed outside the first ten of the Assistants and thus really had no cause for grievance in so far as this petition, Civil Writ No. 2189 of 1967 was concerned. Hira Lal's case, Civil Writ NO. 271 of 1966, D/- 29-11-1966 (Punj) was cited before the learned Judge, who observed that "careful perusal of the judgment and in particular of the passage quoted above will show that the reason mentioned in para 18 of the return to the effect that the Haryana Government had taken the impugned decision with due deference to the decision of the High Court of Punjab and Haryana in Civil Writ No. 271 of 1966, D/- 29-11-1966

(Punj) (Hira Lal's case) of what was decided by the Bench. That decision is not applicable to the facts of this case. " However, there is no reference to the decision of the learned Judges in Hira Lal's case, Civil Writ No. 271 of 1966, D/- 29-11-1966 (Punj) striking down paragraph 2 (e) of the letter Annexure "C" already referred to above, which provided that first vacancy out of ten, and later on five, be reserved for a Scheduled Caste candidate or promotee. The striking down of that paragraph is directly relevant to the present cases in so far as Hari Chand respondent is concerned.

The learned counsel for this respondent has urged that that case strictly does not come in because Hari Chand respondent was not given first placing but second placing after Bhagat Singh Assistant who after the reorganisation has been allocated to the State of Punjab. Initially this was so, but in spite of that ratio of Hari Lal's case, in so far as it strikes down the reservation of the top vacancy among a group of five vacancies, substantially applies to Hari Chand respondent's case. So, as has been said already the State of Haryana, respondent, was bound by the decision of a Division Bench of this Court in Hira Lal's case, Civil Writ No. 271 of 1966 (Punj) and, according to that, it was right in passing the order of reversion of Hari Chand respondent. Another argument that has been urged by the learned counsel for this respondent is that this was done without providing any opportunity of hearing to this respondent. The learned counsel has said that if this respondent had been heard, he could have shown that the judgment in Hira Lal's case had no bearing so far as his case was concerned and that, in any case, even if it affected him, there was no necessity to revert him, for his placing could be changed down to the fifth position. Hari Chand respondent was officiating as Head Assistant. The judgment of the Division Bench of this Court in Hira Lal's case justified his reversion and in view of that decision his promotion, in the manner it was initially made, could not be sustained. So that Haryana State Government, respondent, was left with no other course upon to it but to order reversion of this respondent. No rule has been referred to under which this respondent could claim a hearing in this respect or could urge invalidity of the order of reversion for want of hearing. He having been only appointed in an officiating capacity, the expediency of the circumstances left no course open to the State of Haryana, respondent, except to proceed in the manner in which it did in making the order of his reversion. Nothing turns upon this argument. The learned counsel for this respondent has also urged that the Division Bench in Hira Lal's case, Civil Writ No. 271 of 1966, D/- 29-11-1966 (Punj) proceeded to a wrong decision.

In spite of our pointing out to him that the decision is binding on us, he still persisted in his argument. He said that it proceeded on a factual mistake in that while Government's letter, Annexure "C" with Udey Singh petitioner's petition, Civil Writ NO. 441 of 1967, related only to Government servants in Class III and IV, the Bench proceeded on the consideration that the letter related to all the Government servants including the Assistants and Head Assistants in the Agriculture Department of the State Government. This statement by the learned

counsel is not factually true. The learned Judges proceeded on absolutely correct facts. The learned counsel has ignored paragraph 2(c) of the very letter which says that "this State Services including Class I, II, III and IV posts, the only exception being All India Services". So this approach by the learned counsel is factually not correct. The learned counsel for Hari Chand respondent has further urged that the basis on which the learned Judges in Hira Lal's case, Civil Writ No. 271 of 1966, D/- 29-11-1966 (Punj) have proceeded is not correct. We cannot go into a matter like this, because, as has been said, we are bound by the decision of the Division Bench in that case.

The last argument of the learned counsel for this respondent has been that he was never informed of the representations of Udey Singh and Kidar Singh, petitioners, but that is only another aspect of the argument already dealt with that the order of reversion could not have been made without first hearing Hari Chand respondent over the matter, although he was merely an officiating Head Assistant. So none of these arguments prevails.

13. The result then is that the reversion of Hari Chand respondent was correct, the promotion of Hari Bhagat petitioner has been according to the reservation for Scheduled Castes and Backward Classes, and the Haryana State Government, respondent, acted not only on the representation of Udey Singh petitioner but also that of Kidar Singh petitioner who was No. 2 in the original seniority list in the Punjab State before reorganisation. In these circumstances we accept the appeal by Udey Singh petitioner (L. P. A. No. 162 of 1968), set aside the judgment and order of the learned single Judge, and dismiss the petitioner of Hari Chand respondent (Civil Writ NO. 2189 of 1967), leaving the parties to bear their own costs throughout.

14. With the acceptance of the representations of Udey Singh and Kidar Singh, petitioners, and the consequent reversion of Hari Chand respondent by the order of the Haryana State Government, respondent, the petitions of these two petitioners, Civil Writ No. 441 of 1967 and Civil Writ No. 1675 of 1968 respectively, have really become infructuous and fail on this short ground. Kidar Singh petitioner's writ petition No. 1675 of 1968 also fails on another simpler ground that no such petitioner under Arts. 226 and 227 of the Constitution is competent in this Court against a judgment of this very Court by a learned Singh Judge, against which this petitioner filed his petition. No direction could be issued in connection with a judgment of a learned Single Judge in this very Court. The petition under those Articles of the Constitution could not proceed to review the judgment and order of the learned Single Judge. But if a review application was intended by this petitioner of the judgment and order of the learned Single Judge, then it should have been filed in the form of such application which would, in the normal course have been placed before the learned Single Judge concerned, or in his absence, before another Single Judge. So these two petitions fail and are dismissed, with no order in regard to costs in either.

P.C. Jain, J.

15. I agree.

16. Order accordingly.