

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO.4455 OF 2008
(Arising out of SLP(C) No.9895/2006)**

RAJ KARAN SINGH

Appellant(s)

Versus

STATE OF PUNJAB & ORS.

Respondent(s)

O R D E R

We have heard learned counsel for the parties.

Leave granted.

This appeal by special leave is directed against the Order dated 18th April, 2006 in Civil Writ Petition No.14465 of 2004 passed by the Division Bench of the High Court of Punjab and Haryana at Chandigarh whereby the Division Bench has allowed the Writ Petition filed by Respondent No. 3 herein and quashed the order dated 14th July, 2004 (Annexure P-1) whereby the appellant herein Raj Karan was shown above Pardaman Singh (R-3) in the seniority list of Vaidyas.

The brief facts which are necessary for disposal of this appeal are that Pardaman Singh (R-3 herein) filed a writ petition challenging the order dated 14th July, 2004 by which he was granted seniority above Raj Karan Singh (appellant herein) in the cadre of Vaidyas. The

Government issued a Notification that both these candidates are selected for the post of Vaidyas in 1987. As per the recommendation of the selection committee dated 4th June, 1987 Pardaman Singh (R-3) was placed at No.9 and Raj Karan Singh, the Appellant before us, was placed at S.No.10. But because of the Government's Instructions dated 5.5.1975 with regard to appointment of the scheduled castes and scheduled tribes to the effect that out of 50% of the post of scheduled castes shall be reserved for Mazhbi Sikhs/Balmikis and in that Raj Karan Singh who belong to Balmiki was given appointment against the post of scheduled caste. Pardaman Singh was given the next post. Raj Karan Singh made a representation against Pardaman Singh for assignment of higher seniority and claimed seniority against Pardaman Singh on the ground that he has been appointed against the first vacancy of scheduled caste Mazhbi Sikhs/Balmikis and therefore, he should be given seniority over Pardaman Singh. This representation was acceded by the Government and seniority was changed and Raj Karan Singh was given seniority above Pardaman Singh in the cadre of scheduled caste. Pardaman Singh filed a writ petition and in that writ petition the Division Bench of the High Court allowed the writ petition

and held that as per the selection committee's recommendation, Pardaman Singh has been placed at S.No.9 in merit and Raj Karan Singh has been placed at S.No.10 in the merit list. Therefore, the Division Bench held that Pardaman Singh who has placed higher in merit by selection committee, should be given seniority above Raj Karan Singh notwithstanding that Raj Karan Singh has been appointed on the first scheduled caste vacancy. The view taken by the Division Bench appears to be just and proper. The incumbent can be appointed against first vacancy but in the same selection if names are arranged according to merit then person higher in merit can not be lowered down in seniority. The view taken by the High Court, in our opinion, appears to be just and proper. Therefore, we do not think it proper to interfere in this appeal. The same is accordingly, dismissed.

No order as to costs.

.....J.
(A.K.MATHUR)

.....J.
(DALVEER BHANDARI)

New Delhi,
July 16, 2008