



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision: 03.09.2025

211 (3 cases)

CWP-24764-2021

VIRENDER KUMAR AND OTHERS

...Petitioners

Versus

CENTRAL BOARD OF TRUSTEES AND OTHERS

...Respondents

CWP-24767-2021

VIRENDER KUMAR AND OTHERS

...Petitioners

Versus

CENTRAL BOARD OF TRUSTEES AND OTHERS

...Respondents

CWP-24775-2021 (O&M)

VIRENDER KUMAR AND OTHERS

...Petitioners

Versus

CENTRAL BOARD OF TRUSTEES AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present:- Mr. Kamal Sehgal, Advocate &
Mr. Ravinder Pankaj, Advocate,
for the petitioners.

Mr. Akshay Bhan, Senior Advocate with
Mr. Amandeep Talwar, Advocate and
Mr. Sharya Khanna, Advocate,
for respondents No.6, 7 & 28 (in CWP-24764-2021).

Mr. Nitin Sharma, Advocate,
for respondent Nos.17, 12 & 20 (in CWP No.24767 of 2021).

Dr. Rau P.S. Girwar, Advocate, (through V.C.) with
Ms. Archana Arora Rau, Advocate,
Ms. K.T. Rau, Advocate and
Mr. Ashish Sharma, Advocate,
for respondent Nos.9, 15, 21, 22 and 24.



Mr. Sanjay Tangri, Advocate, (Through V.C.)
for respondent Nos.1 to 5.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present bunch of writ petitions, the challenge is to the order dated 28.11.2019 (Annexure P-1) passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as ‘Tribunal’), by which a direction has been given by the Tribunal by placing reliance on the judgment of the Hon’ble Supreme Court of India in ***Y.V. Rangaiah and others vs. J. Sreenivasa Rao and others***, (1983) 3 SCC 284, that for filling up the vacancy of the Section Supervisor, the rules which were prevalent prior to the promulgation of Employees’ Provident Fund Organization Section Supervisor Recruitment Regulations, 2017 (for short ‘2017 regulations’), will be adhered to, as the vacancies which were being sought to be filled-up, arose prior to the promulgation of the said 2017 regulations.

2. Certain facts need to be mentioned for the correct appreciation of the issue at hand.

3. The petitioners are working as Senior Social Security Assistants (SSSAs) with the respondent-organization. The next promotion from the post of SSSA is to the post of Section Supervisor, which was to be made in accordance with the “Employee Provident Fund Organization Section Supervisor (Head Clerk) Regional office Recruitment Rule, 1992, as amended in 2006 (for short “1992 rules”). As per the 1992 Rules, post of Section Supervisor is required to be filled up by 100% promotion from two sources, i.e. $66\frac{2}{3}\%$, were to be filled by promotion of Social Security



Assistants (SSA) on the basis of the seniority having 03 years of service and 33 1/3% of the posts were to be filled though by promotion but from the employees serving in the respective regional office on the basis of the departmental examination, which was only allowed to the employees, who have rendered not less than 3 years of service as SSA or the Stenographers, failing which the direct recruitment was to be undertaken.

4. The said 1992 Rules continued in operation till the 2017 regulations were enacted on 05.12.2017 and as per the 2017 regulations and criteria for promotion was changed to the effect that for promotion to the post of Section Supervisor, the quota for promotion on the basis of seniority and through limited departmental competitive examination remained the same but the eligibility to compete under the said quota was changed. From 05.12.2017 onwards, the following rule was made operational.

Method of recruitment whether by direct recruitment or by promotion or by deputation/ absorption and percentage of the vacancies to be filled by various methods.	In case of recruitment by promotion or deputation or absorption, grades from which promotion or deputation or absorption to be made
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(i) 66 2/3% by promotion on the basis of seniority subject to rejection of unfit. (ii) 33 1/3% by promotion through Limited Departmental Competitive Examination.	(i) Senior Social Security Assistants in LEVEL-6 (Rs.35400-112400) with five years' of regular service rendered in the respective zonal offices; (ii) Employees serving in the respective zone on the basis of Limited Departmental Competitive Examination held for those who have rendered not less than five years' service as Senior Social Security Assistants in LEVEL-6 (Rs.35400-112400). Note: Respective Zone means all offices of Employees' Provident Fund Organization sharing a common seniority.

5. After the promulgation of 2017 regulations, the Department



decided to fill up the post of Section Supervisor and issued the notification dated 21.06.2018, wherein, it was mentioned that the eligibility of an employee for promotion to the post of Section Supervisor will be seen as per 2017 regulations even for the Competitive Examination Scheme and the eligibility will be seen on as on 1st of April of the year vacancy arose.

6. Thereafter, keeping in view the fact that only Senior Social Security Assistants were made eligible under 2017 regulations, the grievance was raised by the Social Security Assistants that they are being made ineligible to compete for the post of Section Supervisor despite the fact that under the 1992 rules when the vacancy arose, they were eligible and as the vacancies which are being filled up became available prior to the promulgation of 2017 regulations, they cannot be ousted from the zone of consideration especially when the eligibility is to be seen on as on 1st of April of the year when the vacancy arose. Keeping in view the litigation initiated at the hands of the Social Security Assistants before the Tribunal, they were also allowed to compete for promotion to the post of Section Supervisor by the grant of interim order.

7. Thereafter, the Original Applications were decided by the Tribunal vide order dated 28.11.2019 allowing the prayer of the Social Security Assistants that as the vacancy arose starting from the year 2006 onwards till 2017, during which period, no promotions were undertaken to the post of Section Supervisor and as per the judgment of the Hon'ble Supreme Court of India in *Y.V. Rangaiiah's* case (supra), all vacancies which arise prior to the amendment of the rules, are to be filled by old rules, hence, the right to compete for the said post as being claimed by the Social



Security Assistants is valid and they should also be considered eligible for such posts which were available prior to 05.12.2017 and are being filled up in pursuance to the recruitment notice issued in the year 2018.

8. Thereafter, the judgment dated 28.11.2019 passed by the Tribunal was looked into by the department and was accepted and the promotions were made by considering Social Security Assistants eligible and on the basis of the merit obtained by the employees in the departmental examination irrespective of the fact as to whether they were working on the higher post of Senior Social Security Assistants or Social Security Assistants, as the case may be. The employees higher in merit were allowed the promotions to the post of Section Supervisor, which has caused prejudice to the petitioners herein, who claimed that as they are working as Senior Social Security Assistants and are senior to the Social Security Assistants and as per 2017 regulations, only the Senior Social Security Assistants are eligible, their right to claim promotions has been defeated by the employees, who were juniors to them and were also ineligible as per 2017 regulations, which should have been made applicable rather than the 1992 rules which were in existence on the date when the vacancy arose. Hence, the present bunch of petitions.

9. Learned counsel appearing on behalf of the petitioners argues that the petitioners are the Senior Social Security Assistants, who are working with the Department and as per the 2017 regulations, only the Senior Social Security Assistants are eligible for promotion to the post of Section Supervisor as per the notification issued for making promotion on 21.06.2018 hence, allowing Social Security Assistants to be treated eligible



for promotion on the ground that under the 1992 Rules, as amended in the year 2006, Social Security Assistants were eligible and as the post became available from 2007 onwards till 2017, i.e. prior to the promulgation of 2017 regulations, the same are to be filled as per old rules by considering Social Security Assistants also eligible.

10. Learned counsel for the petitioners argues that since there was a litigation going on, the department refrained from making any promotion till the restructuring was done in the year 2016 and after restructuring, the 2017 regulations were framed according to which only the Senior Social Security Assistants were eligible for promotion to the post of Section Supervisor, therefore, the grant of benefit by the Tribunal in favour of Social Security Assistants by applying the judgment of the Hon'ble Supreme Court of India in *Y.V. Rangaiah's* case (supra) that old vacancies are to be filled by old rules, the benefit has been granted, which is incorrect. Learned counsel appearing on behalf of the petitioners relies upon the judgment of the Hon'ble Supreme Court of India in **Civil Appeal No.9746 of 2011**, titled as *State of Himachal Pradesh and others vs Raj Kumar and others*, decided on **20.05.2022**, to contend that the judgment in *Y.V. Rangaiah's* case (supra) has been specifically overruled and the settled principle of law which has been settled by the Hon'ble Supreme Court of India is that the vacancies are to be filled up as per the rules which exist on the date of consideration hence, as in the present case the consideration for promotion to the post of Section Supervisor started in the year 2018, though finalized much subsequently, 2017 regulations are to be made applicable rather than 1992 regulations as amended in the year 2006 and therefore, the judgment of the



Tribunal dated 28.11.2019 is contrary to the settled principle of law settled by the Hon'ble Supreme Court of India in **Raj Kumar's** case (supra) and the same may kindly be set aside.

11. Learned senior counsel appearing on behalf of the respondents, who have been granted relief by the Tribunal vide impugned order dated 28.11.2019 contests that the argument of the learned counsel for the petitioners that judgment in **Y.V. Rangaiah's** case (supra) has been overruled, is not correct rather the same has been watered down only to the extent that the same has limited applicability. Learned senior counsel argues that the applicability of **Y.V. Rangaiah's** case (supra) exists in the present case keeping in view the guidelines which have been issued by the Department of Personnel that for filling up the vacancies arising in the department, the promotion has to be made year-wise and therefore, once the guidelines provide year-wise promotion, the judgment in **Y.V. Rangaiah's** case (supra) will be applicable and cannot be treated as having been overruled in **Raj Kumar's** case (supra).

12. Learned senior counsel appearing for the respondents further submits that the guidelines issued by the DOPT in the year 2010, has to be read along with 2017 regulations so as to treat the Social Security Assistants eligible for promotion hence, the Tribunal was within its jurisdiction to pass the order treating the Social Security Assistants eligible even under 2017 regulations so as to be considered eligible for promotion to the post of Section Supervisor, which has already been done and as the Social Security Assistants are more meritorious, they have been granted benefit of promotion as Section Supervisor over and above Senior Social Security



Assistants and hence, the petitioners cannot raise any grievance qua the same.

13. Learned senior counsel for the respondents further submits that even otherwise, once the issue between the parties was settled by the Tribunal, the subsequent judgment in ***Raj Kumar's*** case (supra) will not take away the right of the Social Security Assistants to be considered eligible for promotion as Section Supervisor. Hence, the judgment in ***Raj Kumar's*** case (supra) cannot be applied in the facts and circumstances of the present case.

14. Learned counsels appearing on behalf of respondent Nos.7, 12 & 20 (in CWP No.24767 of 2021) and respondent Nos.9, 15, 21, 22 and 24 (in CWP-24775 of 2021) submit that once the petitioners have participated in the selection process, they cannot be allowed to turn around and say that the selection so made on the basis of the order passed by the Tribunal is incorrect and the law of estoppel will come into force especially when the petitioners competed in the departmental examination and could not come within the merit keeping in view the number of post of Section Supervisor to be filled up hence, the writ petition is liable to be dismissed on this ground alone.

15. Learned counsel appearing on behalf of the Department submits that though, before the Tribunal, the stand of the Department was the same as that of the petitioners herein that the vacancies are to be filled as per the 2017 regulations and the claim that old vacancies are to be filled according to the 1992 rules, is not applicable but after the judgment of the Tribunal, dated 28.11.2019, which has been impugned in the present petitions, a conscious decision was taken to implement the said judgment and to effect



promotion as per the said judgment.

16 We have heard learned counsel for the parties and have gone through the case files with their able assistance.

17. The first argument which has been raised by the learned counsel for the petitioners is that the judgment in *Y.V. Rangaiah's* case (supra) has been relied upon by the Tribunal so as to grant relief to the respondents herein that the vacancies, which arose prior to 2017 regulations, are to be filled by the unamended rules of 1992, cannot be sustained in view of the fact that the judgment in *Y.V. Rangaiah's* case (supra) has been overruled in *Raj Kumar's* case (supra). The said argument has been opposed by the learned senior counsel counsel for the respondents on the ground that the judgment in *Y.V. Rangaiah's* case (supra) has only been diluted and not overruled hence, as the vacancies are to be filled year-wise, order has rightly been passed by the Tribunal to fill up the vacancies as per the unamended Rules, i.e. 1992 Rules.

18. In order to appreciate the respective arguments, the statutory rules governing promotion are to be looked into. A bare perusal of the rule which has been reproduced hereinbefore shows that no rule or clause has been mentioned that the promotions are to be made every year keeping in view the number of vacancies which arise in a particular year so as to effect promotions. In the absence of any such statutory rule brought before this Court directing promotion every year, it cannot be said that the respondents were under obligation to effect promotion every year keeping in view the vacancies which arise in those years.

19. Further, the reliance is being placed by the respondents on the



guidelines issued by the DOPT that the vacancy should be filled every year. It may be noticed that the said DOPT letter/guidelines is only a recommendatory asking the department that the vacancies should be filled up so that the work does not suffer. Once, the rule does not envisage any direction or obligation upon the department to fill the posts every year, even otherwise, the judgment in *Y.V. Rangaiah's* case (supra) could not have been made applicable, as the judgment in *Y.V. Rangaiah's* case (supra) was given under the specific rule where, there was an obligation upon the department to prepare a select list every year keeping in view the vacancy that arose, which fact is missing in the present case.

20. Apart from this, the law laid down by the Hon'ble Supreme Court of India in *Raj Kumar's* case (supra) is quite clear. As per the law laid down, the rules which are in operation on the date when the consideration takes place for promotion are to be made applicable. The reason given by the Hon'ble Supreme Court of India is that there is no vested right to claim promotion and only right is of consideration as and when the department decides to effect the promotion. Hence, the rules which are applicable on the date when the consideration takes place are to govern the issue of promotion and no promotion can be made on the basis of the rules, which no longer exist in the rule book. The relevant paragraphs of the judgment in *Raj Kumar's* case (supra) are as under.

“3.2 Shri P.S. Patwalia, learned Senior Advocate for the Appellant-State made the following submissions. At the outset, he would submit, that there was no challenge to the legality of the New Rules and therefore the Respondents cannot seek a relief which is contrary to the Rules i.e., filling up the posts by



way of promotion as per the Old Rules. Secondly, the interdepartmental letter dated 20.07.2006 followed by the notification dated 02.01.2007 creating the posts was in furtherance of the new policy which was brought into effect by the amendments made to the Rules. It was therefore contended that the interdepartmental letter dated 20.07.2006 cannot be seen as a stand alone event and that it is part of the larger policy to restructure the cadre. Thirdly, there is no vested right to promotion, though there is only a right to be considered for promotion as per the rules which are in force at the time of such consideration. Fourthly, the recruitment exercise undertaken by the State is completely based on the policy consideration of the State which the High Court failed to take into account. In support of this submission, reliance was placed on judgments of this Court in K. Ramulu, Deepak Agarwal and Krishna Kumar. It was finally contended that the High Court erred in applying the decision of Rangaiah which was the case of promotion, while the present case is about direct recruitment to the post of Labour Officers.

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4.1 The real question is whether the vacancies which arose prior to the promulgation of the new rules are to be filled only as per the old rules and not as per the amended rules? It is argued that this principle is no more res-integra as the Supreme Court recognised such a right in Rangaiah's case and it has been followed in a large number of subsequent decisions. A list of such judgments was forwarded to the Court by the Respondents. On the other hand, while submitting that there is no such right, an even larger list of decisions of this Court that distinguished Rangaiah



was forwarded to us on behalf of the State.

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5.2 The question that arose in Rangaiah's case related to the mandatory obligation under the old rules to prepare an approved list of candidates and also the number of persons to be placed in the list as per the vacancies available. It is in this context that the Court observed that the vacancies would be governed by the old rules. This decision is not to be taken to be laying down an invariable principle that vacancies occurring prior to the amendment of the rules are to be governed by old rules. It is important to note that the Court has not identified any vested right of an employee, as has been read into this judgment in certain subsequent cases.

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11. In view of the above principles, flowing from the constitutional status of a person in employment with the State, we have no hesitation in holding that the observations in Rangaiah that posts which fell vacant prior to the amendment of Rules would be governed by old Rules and not by new Rules do not reflect the correct position of law. We have already explained that the status of a Government employee involves a relationship governed exclusively by rules and that there are no rights outside these rules that govern the services. Further, the Court in Rangaiah's case has not justified its observation by locating such a right on any principle or on the basis of the new Rules. As there are a large number of judgments which followed Rangaiah under the assumption that an overarching principle has been laid down in Rangaiah, we have to necessarily examine the cases that followed Rangaiah. We will now examine how



subsequent decisions understood, applied or distinguished Rangaiah.

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36. A review of the fifteen cases that have distinguished Rangaiah would demonstrate that this Court has been consistently carving out exceptions to the broad proposition formulated in Rangaiah. The findings in these judgments, that have a direct bearing on the proposition formulated by Rangaiah are as under:

1. There is no rule of universal application that vacancies must be necessarily filled on the basis of the law which existed on the date when they arose, Rangaiah's case must be understood in the context of the rules involved therein.
2. It is now a settled proposition of law that a candidate has a right to be considered in the light of the existed rules, which implies the "rule in force" as on the date consideration takes place. The right to be considered for promotion occurs on the date of consideration of the eligible candidates
3. The Government is entitled to take a conscious policy decision not to fill up the vacancies arising prior to the amendment of the rules. The employee does not acquire any vested right to being considered for promotion in accordance with the repealed rules in view of the policy decision taken by the Government. There is no obligation for the Government to make appointments as per the old rules in the event of restructuring of the cadre is intended for efficient working of the unit. The only requirement is that the policy decisions of the Government must be fair and reasonable and must be justified on the touchstone of Article 14.



4. The principle in Rangaiah need not be applied merely because posts were created, as it is not obligatory for the appointing authority to fill up the posts immediately.

5. When there is no statutory duty cast upon the State to consider appointments to vacancies that existed prior to the amendment, the State cannot be directed to consider the cases.

37.1 The above-referred observations made in the fifteen decisions that have distinguished Rangaiah's case demonstrate that the wide principle enunciated therein is substantially watered-down. Almost all the decisions that distinguished Rangaiah hold that there is no rule of universal application to the effect that vacancies must necessarily be filled on the basis of law that existed on the date when they arose. This only implies that decision in Rangaiah is confined to the facts of that case.

37.2 The decision in Deepak Agarwal (supra) is a complete departure from the principle in Rangaiah, in as much as the Court has held that a candidate has a right to be considered in the light of the existing rule. That is the rule in force on the date the consideration takes place. This enunciation is followed in many subsequent decisions including that of Union of India v. Krishna Kumar (supra). In fact, in Krishna Kumar Court held that there is only a "right to be considered for promotion in accordance with rules which prevail on the date on which consideration for promotion take place."

37.3 The consistent findings in these fifteen decisions that Rangaiah's case must be seen in the context of its own facts, coupled with the declarations therein that there is no rule of universal application to the effect



that vacancies must necessarily be filled on the basis of rules which existed on the date which they arose, compels us to conclude that the decision in Rangaiah is impliedly overruled. However, as there is no declaration of law to this effect, it continues to be cited as a precedent and this Court has been distinguishing it on some ground or the other, as we have indicated hereinabove. For clarity and certainty, it is, therefore, necessary for us to hold;

(a) The statement in *Y.V. Rangaiah v. J. Sreenivasa Rao* that, “the vacancies which occurred prior to the amended rules would be governed by the old rules and not by the amended rules”, does not reflect the correct proposition of law governing services under the Union and the States under part XIV of the Constitution. It is hereby overruled.

(b) The rights and obligations of persons serving the Union and the States are to be sourced from the rules governing the services.”

21. A bare perusal of the above reproduction would show that the judgment in *Y.V. Rangaiah's* case (supra) has already been overruled. Further, it has been directed that the rights and obligations of the person serving the Union and the State are to be sourced from the rules governing the service, which means that the rules which are applicable on the date of the consideration are to be made applicable. That being so, on the date when the notice was issued for filling up the post of Section Supervisor by way of promotion i.e. 2018, the 2017 regulations were in operation according to which, only the Senior Social Security Assistants were eligible for consideration for promotion hence, the direction given by the tribunal to



consider even the Social Security Assistants eligible for promotion by operating 1992 rules, cannot be sustained in the eyes of law being perverse to the settled principle of law noticed hereinbefore.

22. Further, the argument being raised by the learned counsel for the respondents is that as per the DOPT instructions, guidelines were issued to make promotion every year. Though, the guidelines cannot be made subject matter of claim as they do not confer any right but in case the guidelines are being followed continuously without any fail, the same can give a right to claim the benefit. It is a conceded case between the parties that the guidelines were issued in the year 2010 and from 2010 till 2018, no promotion was effected. That being so, the guidelines were also not being followed for effecting promotions every year. Once, the guidelines were also not being made operative in the present case, claiming the benefit of the same despite the fact that they do not confer any legal right, no relief can be granted based merely on the basis of the guidelines issued by the DOPT in the year 2010 being only a recommendatory.

23. The further argument has been raised by the learned counsel for the respondents is that once the issue has already been finalized between the parties, the same cannot be reopened even if, the judgment relied upon by the Tribunal to grant the relief is subsequently overruled. The reliance has been placed upon the judgment of the Hon'ble Supreme Court of India in **Civil Appeal No. 4840 of 2021**, titled as ***Neelam Srivastava vs. State of Uttar Pradesh and others***, decided on **17.08.2021**. The reliance is being placed upon the paragraph 30 of the said judgment, which is as under:-

“30. It becomes absolutely clear from the above clarification that earlier decisions running counter to



the principles settled in the decision of Umadevi (3) will not be treated as precedents. It cannot mean that the judgment of a competent Court delivered prior to the decision in Umadevi (3) and which has attained finality and is binding *inter se* between the parties need not be implemented. Mere over-ruling of the principles, on which the earlier judgment was passed, by a subsequent judgment of higher forum will not have the effect of uprooting the final adjudication between the parties and set it at naught. There is a distinction between over-ruling a principle and reversal of the judgment. The judgment in question itself has to be assailed and got rid of in a manner known to or recognized by law. Mere over-ruling of the principles by a subsequent judgment will not dilute the binding effect of the decision on *inter-parties*.”

24. A bare perusal of the above reproduction would show that it is only where the issue raised *inter se* between the parties has attained finality, the same cannot be reopened. In the present case, only the Tribunal had allowed the claim of the respondents, which judgment is under challenge in the present petition and while issuing notice of motion in the order dated 07.12.2021, it was mentioned that any promotion made will be subject to the final decision of the writ petition, which clearly shows that the issue raised between the parties never attained finality and was still pending consideration before this court coupled with the settled principle of law on the issue raised, the applicability of the judgment in ***Raj Kumar's*** case (*supra*) in the facts and circumstances of the present case is perfectly valid and legal so as to decide the issue whether the 1992 rules are to be made applicable on the ground that the vacancies arose when the same were in



operation despite amendment to the rules subsequently in 2017, which process of promotion was started in the year 2018.

25. Learned counsel for the respondents have raised the plea that the petitioners have already competed in the departmental examination and failed and therefore, even otherwise they cannot raise grievance with regard to the selection and promotion of the private respondents and further, they were not party in the original application. It may be noticed that the said issue to be decided as per the settled principle of law settled by the Hon'ble supreme court of India in **Civil Appeal No.4578-4580 of 2022**, titled as ***Krishna Rai (Dead) through LRs and others vs. Banaras Hindu University through Registrar and others***, decided on **16.06.2022**, wherein it has been held that where the selection process has been held in violation of the service rules, same cannot be held valid on the ground that principle of estoppel applies. In the present case, the reliance being placed by the petitioner is on the 2017 regulations according to which, the Social Security Assistants are not even the part of the feeder cadre to claim promotion to the post of Section Supervisor, whereas, the Tribunal has granted the same. The relevant paragraph of the judgement in ***Krishna Rai's*** case (supra) is as under:

“22. However, the Division Bench fell in error in applying the principle of estoppel that the appellants having appeared in the interview and being unsuccessful proceeded to challenge the same and on that ground alone, allowed the appeals, set-aside the judgment of the learned Single Judge. The Division Bench having approved the reasoning of the learned Single Judge, ought not to have interfered in the



judgment of the learned Single Judge on a technical plea. The Division Bench ought to have considered that the appellants were Class-IV employees working from 1977 onwards and expecting from them to have raised serious objection or protest at the stage of interview and understanding the principles of changing the Rules of the game, was too far-fetched, unreasonable and unwarranted.

23. The case laws relied upon by the Division Bench would have no application in the facts of the present case as none of the judgments relied upon by the Division Bench laid down that principle of estoppel would be above law. It is settled principle that principle of estoppel cannot override the law. The manual duly approved by the Executive Council will prevail over any such principle of estoppel or acquiescence.”

26. Even otherwise, it may be noticed that there was no challenge to the selection process at the hands of the petitioners. Rather the same was challenged by the respondents claiming eligibility. The petitioners who were directly affected by the impugned judgment were not even impleaded as a party to the said proceeding and ultimate order affected the petitioners hence, they have rightly approached this Court for the redressal of their grievance. Therefore, the argument being raised by the respondents that the petitioners have no *locus standi* or have competed and failed, cannot be applied in the facts and circumstances of the present case so as to dismiss the writ petition.

27. Learned senior counsel appearing on behalf of the respondents have argued that though, up to the year 2017, the Social Security Assistants were eligible, but by 2017 regulation, they have been ousted from the zone



of consideration, as the feeder cadre has been limited to Senior Social Security Assistants only, which is incorrect and same cannot prejudice to Social Security Assistants. It may be noted that a specific contention was raised before the Tribunal that there is no challenge to the 2017 regulations at the hands of the Social Security Assistants. In case, they were aggrieved that they have been ousted from the feeder cadre for promotion as Section Supervisor in the 2017 regulations, nothing stopped them to challenge the said rule. In the absence of any such challenge to the 2017 regulations, no benefit could have been granted to the Social Security Assistants so as to treat them eligible for promotion as Section Supervisor.

28. The last contention which has been raised by the counsel appearing on behalf of the Respondents is that after the promotions were effected keeping in view the direction given by the Tribunal so as to treat the Social Security Assistants eligible for promotion to the post of Section Supervisor, some of the officers have already been promoted further hence, they should be saved rather than being reverted. It may be noticed that while issuing the notice of motion in the present bunch of petitions, the promotions so made were subjected to the final outcome of the writ petitions, that means the said promotions never gained finality until the decision of the present bunch of the writ petitions. Though, some promotees might have been promoted further but once their promotion to the post of Section Supervisor was not in accordance with law as well as the rules governing the service, further benefit of promotion could not have been granted.

29. Further, the same posts against which the respondents were further promoted, the eligible candidates who are the petitioners are seeking



promotion and eligible employees cannot be denied consideration for promotion on the basis of the merit obtained by such candidate only to save ineligible candidates, who are not eligible under the 2017 regulations to get promotion to the post of Section Supervisor. Hence, merely that on the basis of the incorrect promotion granted on the basis of the order passed by the Tribunal, the respondents cannot be saved only on the ground that they have been further promoted. The challenge to their promotion and to their eligibility was pending consideration before this court, which is being decided by this order. Hence, any benefit that accrued on the basis of the judgment of the Tribunal, which is perverse to the settled principle of law as well as the rules governing the service, such promotions cannot be saved much less the further promotion on the basis of incorrect promotion to the post of Section Supervisor.

30. However, it may be noticed that there has been a further selection to the post of Section Supervisor in the year 2024 and certain persons have been promoted. In case, for those promotions, the respondent-Social Security Assistants, become eligible, but could not be considered as they had already been promoted, due consideration will be given as to whether, such respondents can be accommodated against the posts, which were advertised in the year 2024 and were filled up. However, the said exercise will be dependent upon the decision to be taken by the department and no specific direction is being given by this Court, even on the said account.

31. No other argument has been raised.

32. Keeping in view the totality of facts and circumstances and the



settled principle of law noticed hereinbefore, as the judgment of the Tribunal dated 28.11.2019 is perverse to the settled principle of law settled by the Hon'ble Supreme Court of India in ***Raj Kumar's*** case (supra), the same cannot be sustained and is, accordingly, set aside.

33. The Social Security Assistants, who have been given promotion on the basis of the impugned judgment dated 28.11.2019 (Annexure P-1) passed by the Tribunal, will be withdrawn and against those vacated posts, the Senior Social Security Assistants, who competed, will be considered in accordance with their merit and they will be entitled for promotion from the date their junior was promoted but with notional benefits. The order be complied with within a period eight weeks from the date of receipt of copy of this order.

34. The writ petitions are allowed in above terms.

35. Photocopy of this order be placed on the files of connected cases.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

September 03, 2025

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Whether speaking/reasoned	Yes
Whether reportable	Yes