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SLP(C)No. 21387 OF 2001  
ITEM No.204

Court No. 9

SECTION IVB  
A/N MATTER

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.21387/2001  
(From the judgement and order dated 25/07/2001 in RSA 2719/01  
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

PUNJAB STATE ELECTRICITY BOARD & ANR.

Petitioner (s)

VERSUS

MUKHITAR SINGH

Respondent (s)

(With prayer for interim relief)

( With Appln(s). for permission to place addl. documents on record )

( For Final Disposal )

Date : 17/10/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Petitioner (s)Mr. S.S. Gulati & Dr. Kailash Chand,Adv.s.

For Respondent (s)Mr. Vipin Gogia,Ms. Jaspreet Gogia &  
Mr. K.K. Gogna,Adv.s.

UPON hearing counsel the Court made the following

O R D E R

Heard the learned counsel on either side.

The appeal filed by the Punjab State Electricity Board was dismissed by the High Court by applying the decision rendered by this Court in the case of PSEB & Ors. Vs. Ravinder Kumar Sharma & Ors reported in 1987 (1) SCR 72. But unfortunately the High Court did not notice that the decision of the Constitution Bench of this Court in the case of P.Murugesan & Ors. Vs. State of Tamil Nadu and Ors. reported in 1993 (1) SCR 405 had overruled the decision in Ravinder Kumar Sharma's case. The Constitution Bench held that the quota system is not violative of Article 14 of the Constitution. The respondent herein was seeking promotion to the Line Superintendent based on his seniority in the common cadre and his turn had not come in the quota prescribed for his category. The promotion of the respondent could have been considered only in the light of the decision in P.Murugesan. We are told that he was given promotion on the basis of the impugned judgment. As the respondent is a pensioner, we direct that no refund shall be demanded from him pursuant to our decision. However, the petitioner-Board is at liberty to fix his lawful promotion date to the post of Line Superintendent-II and consider his entitlements for increments from that date and may make suitable alterations in the pension payable to the respondent.

The SLP is disposed of.

( Y.P. Dhamija )  
AR-cum-PS

(Veera Verma )  
Court Master