

(7) The second ground raised was that ingredients which go to make cattle feed are not available of the specifications laid down by the Bureau of Indian Standards of Government of India. Reliance was placed on Annexure P-3 a certificate issued by the Professor of Animal Nutrition, Department of Animal Sciences, Punjab Agriculture University, Ludhiana, an ex-Member of I.S.I. Feed Committee. All what is said in the certificate is that feed ingredients available in the market have very wide variation. Fear has been expressed that the specifications asked for in the impugned order would be very difficult to meet and that steps should be taken to ensure the availability of feed ingredients of the requisite standards.

(8) Mr. Riar, learned Sr. DAG Punjab, states that the State would ensure their availability and if the ingredients of the said specification are not available in Punjab and there is difficulty in getting them from other States within India, the State would ensure that they are available to the feed manufacturers, for it has a duty towards preserving the cattle wealth of India and indirectly towards economic growth on that aspect. We are satisfied by the assurance given by the learned Sr. D.A.G. Punjab. So, this ground also fails.

(9) As a result, we dismiss the petition at the motion stage *in limine*.

S. C. K.

Before V. Ramaswami, C.J. and Jai Singh Sekhon, J.

K.S.S. NAYYAR,—Petitioner.

versus

STATE OF PUNJAB AND OTHERS,—Respondents.

Civil Writ Petition No. 8822 of 1987

(Civil Misc. No. 6378 of 1987)

May 6, 1988.

Constitution of India, 1950—Arts. 226 and 320(3)(b)—Appointment on deputation—Chief Engineer U.T.—Post to be filled from Chief Engineers of Punjab cadre—Non-availability of Chief Engineers—Superintending Engineers eligible for post provided senior enough to be in zone of consideration as Chief Engineers—Requisition by U.T. Administration—Lending department submitting panel

K. S. S. Nayyar v. State of Punjab and others (V. Ramaswami, C.J.)

of willing Superintending Engineers—Seniormost on panel—Whether has right to be appointed—Post of Chief Engineer—Whether a promotion post for said Superintending Engineer of Punjab cadre—Filling up of post of Chief Engineer, U.T., Chandigarh—Approval of Union Public Service Commission—Whether necessary.

Held, that the post of Chief Engineer in Chandigarh Administration cannot be treated as a promotion post for Superintending Engineers in the Punjab Cadre. Promotion can only be in the same Department. Where selection is made from a different Department or Government, in respect of those sources though it is loosely termed as 'appointment' on deputation, it is really filling up the post by the deputationist who was selected by the borrowing department. The deputationist in the borrowing department is only that of a person holding the ex-cadre post. Therefore, it has to be held that the post of Chief Engineer is not a promotion post for Superintending Engineers of the Punjab Cadre.

(Para 4)

Held, that even if the Chandigarh Administration wants only a panel of three names, in sending 5 names the government cannot be considered to have committed any legal flaw. It is for the Punjab Government to consider as to how many names of eligible officers they would send and it is for the Administration to consider which of the names they would select.

(Para 5).

Held, that the borrowing department i.e., U.T. Administration was not bound to select the first of the seniormost of the panel. The very purpose of asking for a panel of names is to consider each one of them with reference to the merit and suitability for the job. Therefore, merely the person lower in seniority was chosen from the panel it cannot be said that there is any legal *mala fides* on the part of the government.

(Para 6).

Held, that this is not a case of recruitment. It is a misnomer to call it a recruitment. An officer is selected to fill up a post by deputation. It is an ex-cadre post and he is only selected in order to fill up that post. It neither amounts to recruitment nor appointment to a post. It is also doubtful whether Article 320 (3) of the Constitution of India, 1950 will apply in respect of cases of deputationists filling up posts in other Departments of ex-cadre posts. In the circumstances we are of the view that there is no necessity for consultation of the Union Public Service Commission before filling up the post of Chief Engineer, U.T. Administration. In any case, the non-consultation with the Union Public Service Commission in the circumstances would be considered a mere irregularity not effecting the selection and posting.

(Para 8)

Petition under Articles 226/227 of the Constitution of India praying that—

- (i) *an appropriate writ, order or direction for quashing the panel of names sent by the Punjab Government to Union*

Territory Administration for appointment as Chief Engineer-cum-Secretary, Union Territory, Chandigarh to the extent it included the names of Sarvshri Satinder Singh and S. S. Virdi, Superintending Engineers, P.W.D., B. & R., Punjab, be issued.

- (ii) *the order of appointment of Shri S. S. Virdi, as Chief Engineer-cum-Secretary of Union Territory, be quashed.*
- (iii) *any other writ, direction or order which this Hon'ble Court may deem fit in the circumstances of the case.*
- (iv) *the relevant record may be ordered to be summoned from the office of the respondents.*
- (v) *the filing of the certified copies of the Annexures and copy of the order of appointment of respondent No. 3 may kindly be dispensed with.*
- (vi) *the service of the advance notices of the writ petition on the respondents may also be dispensed with as the petitioner has no time to serve the respondents.*
- (vii) *the costs of the petition may be awarded to the petitioner.*

It is further prayed that during the pendency of the writ petition, the operation of the order of appointing Shri S. S. Virdi, respondent No. 3, as Chief Engineer-cum-Secretary, Union Territory, Chandigarh, may kindly be stayed.

CIVIL MISC. No. 6378 of 1987.

Application under section 151 of the Code of Civil Procedure praying the additional affidavit may be allowed to be placed on record and the reference to the same may be allowed to be made at the time of arguments.

R. S. Mongia, Sr. Advocate (Jagdeep Singh, Advocate with him),
for the Petitioners.

H. S. Bedi, Addl. A.G. (Pb.), for Respondent No. 1.

H. L. Sibal, Sr. Advocate (R. C. Seitia, Advocate with him), for
Respondent No. 3.

Ashok Bhan, Sr. Advocate (A. K. Mittal, Advocate with him), for
Respondent No. 2.

K. S. S. Nayyar v. State of Punjab and others (V. Ramaswami, C.J.)

JUDGMENT

V. Ramaswami, C. J.

This is a petition for the issuance of a writ of *certiorari* to quash the panel of names sent by the Punjab Government to the Union Territory Administration for appointment as Chief Engineer-cum-Secretary, Union Territory, Chandigarh, to the extent it included the names of Satinder Singh and S. S. Viridi, Superintending Engineers, P.W.D., B. & R., Punjab and for quashing the order of appointment of S. S. Viridi, the third respondent in this petition as Chief Engineer-cum-Secretary of the Union Territory.

(2) Since the reorganisation of the State of Punjab and the formation of Chandigarh as Union Territory, the post of Chief Engineer in the Union Territory, Chandigarh, had always been filled up by an officer taken from the Punjab cadre. One J. S. Kohli was holding the post on deputation and his period of deputation was to come to an end in January, 1987 and, therefore, the Chandigarh Administration in their letter dated 8th January, 1987 requested the Punjab Government to send a panel of at least 3 names of serving Chief Engineers of the Punjab Public Works Department in order to choose a successor for J. S. Kohli. They further added that the Administration would appreciate if the Government does not consider the names of officers who are to retire in the near future for inclusion in the panel. However, it added that, if necessary, the names of officers who may not have been promoted as Chief Engineers but who are within the zone of consideration for such promotion may be included. It appears on the 11th of February, 1987, the Government of Punjab sent a panel of two names of whom one was B. K. Malhotra and the other J. S. Sodhi; both were in the cadre of Chief Engineers in Punjab. In their letter dated 25th/27th February, 1987, the Chandigarh Administration informed the Government of Punjab that since Malhotra will be retiring on the 30th June, 1988, the Chandigarh Administration has desired not to consider his name for the assignment in question on the ground that he will not be able to serve the Administration for a reasonable period of time in the event of the selection and that, therefore, they are requesting the Government to forward the names of two other officers in addition to J. S. Sodhi so that a selection could be made from out of a panel of 3 officers. In this letter also they invited the attention of the Punjab Government to the earlier letter dated 8th January, 1987 wherein they had requested

that, if necessary, the names of officers who may not have been promoted as Chief Engineers but who are within the zone of consideration for such appointment may be included.

(3) In the cadre of Superintending Engineers in Punjab, the names shown in the order of seniority is as under :—

- (1) Kuldip Singh,
- (2) P. S. Bassur,
- (3) S. S. Mongia,
- (4) K. S. S. Nayyar,
- (5) Satinder Singh, and
- (6) S. S. Viridi.

It is stated that there is *inter se* seniority dispute between Kuldip Singh and Bassur and this in a civil suit filed against Kuldip Singh by Bassur and Mongia. It is stated that the trial Court decided against Kuldip Singh but, however, the Additional District Judge, Chandigarh held Kuldip Singh senior. It is stated the R.S.A. No. 1640 of 1986 against this Judgment is stated to be pending and, therefore, it is *sub judice*. In March, 1987, the Government of Punjab sent a panel of 3 names who are J. S. Sodhi, Satinder Singh and S. S. Viridi. As already stated, J. S. Sodhi is in the cadre of Chief Engineers in Punjab and Satinder Singh and S. S. Viridi are in the cadre of Superintending Engineers. On the ground that Sodhi is to retire on 31st December, 1988, from among the two Superintending Engineers, the Chandigarh Administration selected S. S. Viridi for filling up the post of Chief Engineer in the Engineering Department of Chandigarh Administration, Chandigarh, and made an order accordingly on the 26th of March, 1987. Mongia and Nayyar filed Civil Writ Petition No. 2460 of 1987 praying for quashing the order of the Punjab Government placing S. S. Viridi at the disposal of Chandigarh Administration for appointment as Chief Engineer and the order of appointment of the Union Territory, Chandigarh, appointing him as Engineer and for a further direction to the Punjab Government to consider the case of the writ petitioners therein for including them in the panel for appointment as Chief Engineer, Chandigarh Administration. While allowing the writ petition by

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an order dated 21st September, 1987 the State of Punjab was directed :—

“To consider the matter afresh and to forward the names of eligible officers for appointment to the post in question in accordance with law.”

In pursuance of the order in the writ petition, the Punjab Government sent a panel of 5 names, namely, J. S. Sodhi, S. S. Mongia, K. S. S. Nayyar, Satinder Singh and S. S. Viridi. The Chandigarh Administration, after consideration of all these names, selected S. S. Viridi again for filling up the post of Chief Engineer. Coming to know of the decision and selection, the present writ petition has been filed this time by K. S. S. Nayyar alone, praying for the reliefs mentioned earlier.

(4) Before we deal with the points raised in the writ petition, we may refer to the earlier judgment of this Court in Civil Writ Petition No. 2460 of 1987. The omission in the panel of the names of S. S. Mongia and K. S. S. Nayyar who are seniors to Satinder Singh and S. S. Viridi was questioned, in addition to challenging the appointment of Viridi as Chief Engineer, on the ground that the post of Chief Engineer in the Chandigarh Administration carries a higher scale of pay than that of the Superintending Engineer in the Punjab cadre. The learned Judges considered that it cannot but be treated as a promotion post for any Superintending Engineer from Punjab whose names is forwarded to the Chandigarh Administration for appointment to this post. The learned Judges further observed that though it is the prerogative of the parent Department to forward the names of such officers as it may deem proper for being sent on deputation, all eligible persons senior to the one whose name is eventually forwarded for filling up such posts shall also be considered. They were also not willing to accept the assertion of the State of Punjab that two writ petitioners in that writ petition were also considered before forwarding the names of Satinder Singh and S. S. Viridi. It is in that view that they gave the direction to consider the matter afresh to forward the names of eligible officers for appointment to the post of Chief Engineer. On the basis of these observations, the learned counsel for the petitioner in this case contended that the post of Chief Engineer in Chandigarh Administration is a promotion post for those who are in the cadre of Superintending Engineers in Punjab cadre and that, therefore, normally in the selection of Chief Engineers in Chandigarh Administration, both the Punjab Government and the Chandigarh Administration should have taken into consideration the seniority in addition to merit and ability. We are unable to agree with the learned

counsel for the petitioner in his contention that either in the earlier decision it was treated as a promotion post or that the post of Chief Engineer in Chandigarh Administration is to be treated as a promotion post for Superintending Engineers in the Punjab cadre. Promotion can only be in the same Department. Where selection is made from a different Department or Government, in respect of those sources though it is loosely termed as "appointment" on deputation, it is really filling up the post by the deputationist who was selected by the borrowing Department. Only eligible and willing candidates who can be spared by the lending Department can be sent. Even if it is a higher post, it is not necessary for the senior most eligible candidate to accept to go as a deputationist. The deputationist retains a lien on the post he held in the parent Department. His service in the borrowing Department is always treated as also service in the parent Department for the purposes of promotion, seniority and other benefits in the parent Department. He never ceases to be a member of the parent Department. His position in the borrowing Department is only that of a person holding an *ex-cadre* post. If he is absorbed in the borrowing Department, he automatically ceases to be a member of the parent Department. It is, therefore, not possible to accept the contention that it is a promotion post. In fact, the learned Judges did not hold, in our opinion, that it is a promotion post but, on the basis that certain benefits are accruing to the deputationists, which assumption in fact does not seem to be correct, it is to be treated as in the nature of a promotion post and probably on that consideration they were of the view that names of all eligible officers should have been sent. In fact, we do not even find any specific plea in the earlier writ petition that it was a promotion post. The contention of the petitioner in that case was that the Chief Engineer's post is a "higher" post than even a Chief Engineer's post in Punjab cadre and much more than the Superintending Engineer's post of the Punjab cadre and not that it was a promotion post. Obviously, when a Chief Engineer of Punjab is taken on deputation as was the case earlier, it cannot be treated as a promotion or the post a promotion post. We are, therefore, unable to agree with the contention of the learned counsel that the Chief Engineer's post in Chandigarh Administration is a promotion post for the Superintending Engineers in the Punjab cadre or that we have to proceed on the basis that it is a promotion post.

(5) The next contention of the learned counsel was that the sending of a panel of 5 names including that of S. S. Viridi, is not

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only against the judgment of this Court in Civil Writ Petition No. 2460 of 1987 but also smacks of legal *maia jaes*. This was on the ground that the Chandigarh Administration wanted only a panel of 3 names; that normally, as per the instructions of the Government, only 3 names were to be sent and this Court in the earlier writ petition also in directing the Government to forward the names of eligible officers intended the Government to send only 3 names and that the panel of 5 names was sent only for the reason that the Government wanted the third respondent S. S. Viridi to be appointed as Chief Engineer in the Chandigarh Administration. As already stated, this Court did not direct the Government to send only 3 names but the direction was "to consider the matter afresh and to forward the names of eligible officers for appointment to the post in question in accordance with law". In fact, the prayer in that writ petition was to quash the appointment of S. S. Viridi and to direct the Government of Punjab to consider the case of the two writ-petitioners for including them in the panel. Accepting the contention of the petitioners that their names were not forwarded for reasons which were clearly not germane to their rejection, the above direction was given. In effect, they held that these two petitioners names also shall be included in the panel as eligible candidates and not in substitution of the earlier names. There could be no dispute that the third respondent also was one of the eligible officers though he may be junior to the writ petitioner. It is also not correct to say that there was any legal restriction for sending a panel of more than 3 names. The learned counsel for the petitioner could not rely on any instructions of the Government restricting their power to send only 3 names or restricting the borrowing Department on calling for a panel of more than 3 names. It cannot also, with certainty, be stated that the Chandigarh Administration called for only a panel of 3 names but the Punjab Government sent 5 names. In the original letter dated 8th January, 1987 the Chandigarh Administration called for a panel of *at least* 3 names. In addition to this, in the same letter it was stated that they would appreciate if the Government does not consider the names of officers who are to retire in the near future for inclusion in the panel and that, if necessary, the names of officers who may not have been promoted as Chief Engineers but who were within the zone of consideration for such promotions may be included. It is plausible, as contended by the learned counsel for the third respondent, that, in addition to calling for the names of serving Chief Engineers, they also referred to officers who may not have been promoted as Chief Engineers but who are within the zone of consideration for such

promotion and that could relate only to Superintending Engineers of Punjab cadre. Though in the subsequent letter of 25th/27th February, 1987 they asked for two other officers in the cadre of Chief Engineers, they also referred to the earlier request and, in particular, drew the attention of the Punjab Government that, if necessary, the names of officers who may not have been promoted as Chief Engineers but who are within the zone of consideration for such promotion may be included. In the judgment also, the learned Judges only referred to the names of all eligible officers to be considered but did not refer to any particular number of officers. In the light of the prayer in the earlier writ petition and the fact that on the earlier occasion they have included the names of Satinder Singh and S. S. Viridi, who are also eligible candidates, when sending the fresh panel in pursuance of the judgment of the High Court, the Government of Punjab have included the other two names of the petitioners in the earlier case who are also eligible. We do not find any legal *mala fides* in this case. Even if it is to be construed that the Chandigarh Administration wanted only a panel of 3 names, in sending 5 names the Government cannot be considered to have committed any legal flaw. It is for the Punjab Government to consider as to how many names of eligible officers they would send and it is for the Administration to consider which of the names they would select.

(6) It was then contended by the learned counsel that there was a duty cast on the borrowing Department to select only the senior most from the panel of names and they have no discretion to choose a person of their choice. The learned counsel referred, in this connection, to an instruction issued by the Chief Secretary to the Government of Punjab to all Heads of Departments in his letter No. 5803-G-51/1-4406, dated 3rd September, 1951. That letter, in addition to other procedure to be followed, also covered the procedure that should be observed where another Government or another Department of the State Government asked for names for filling up posts in their Department. While sending the names, the Department should satisfy itself that the candidate will be suitable for the post and fulfils the required qualifications and that his services can be spared without detriment to the work and suitable substitute will be available. Among other things, it is stated that the following instructions should be borne in minds :—

“(2) If an officer can be spared, his selection should be carefully made and strictly on considerations of merit. No

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sifarish, personal pull or other considerations of that kind should be allowed to intervene in the matter of selection of name or names. The only criterion should be fulfilment of qualifications and suitability. It should be remembered that considerable heart-burning may result, if the names are not selected on consideration of merit and suitability etc.

- (3) Where two or more names have to be forwarded, the same should be, wherever possible or desirable, arranged in order of merit. It should be understood in such a case that the department forwarding the names should be prepared to release any one of the persons recommended but the Head of the Department would be entitled to call from the "demanding or borrowing Government or department" their reasons for selecting a person other than the one recommended as No. 1. Such reasons should not be demanded save in exceptional cases, because the selecting Government or Department has the final voice in making their selections, which are usually based on officers record and qualifications and the selecting Government or department are in the best position to judge their own requirements."

We are unable to see how these two conditions, in any way, help the petitioner in this case. There could be no doubt that the third respondent also fulfils all the conditions of merits for selection except that the petitioner claims to be senior to him. It is true that, as per instruction (3) extracted above, the Government of Punjab would be entitled to call for from the borrowing department reasons for selecting a person other than the one recommended as No. 1 in the panel. But the same instruction states that such reasons should not be demanded save in exceptional cases because the selecting Government or Department has the final voice in making their selection. That itself shows that the borrowing Department is not bound to select the first in the panel. Though we may concede that the borrowing Department should not show any arbitrariness in the selection, it is not possible to accept the contention that the seniority, as shown in the panel, has to be maintained because in each case the Selection Authority would be the borrowing Department and not the lending Department. The very purpose of asking for a panel of names is to consider each one of them with reference to the merit and suitability for a job and,

therefore, merely because the third respondent was chosen, it could not be said that there is any legal *mala fides* either on the part of the Government of Punjab or on the part of the Chandigarh Administration. In fact, the counsel for the Chandigarh Administration has placed before us the file relating to the filling up the posts of Chief Engineers and we find from this file that each one of these candidates has been considered and ultimately the Chandigarh Administration was of the view that the third respondent is clearly far above those other officers included in this panel and having regard to the need for a competitive and clean work and the nature of the post, the third respondent was the most fit. We cannot sit in judgment over this view. We are, however, satisfied that the selection of the third respondent was only on a consideration of the merit and not on any other extraneous considerations.

(7) The petitioner has now also filed C.M. No. 6378 of 1987 praying for permission to raise an additional ground, which we have permitted him to do so, that for selecting and appointing a Chief Engineer for Union Territory, Chandigarh, consultations with the Union Public Service Commission is necessary as per the Government of India decision taken under regulations 3 and 6 of the Union Public Service Commission (Exemption from Consultation) Regulations, 1958, and that, in the absence of such consultations, the appointment could not be sustained. Clause (3) of Article 320 of the Constitution provides that the Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted, among other things :—

- (a) on all matters relating to methods of recruitment to civil services and for civil posts;
- (b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers;
- (c) on all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a Civil capacity, including memorials or petitions relating to such matters.

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As held by the Supreme Court of India in *State of U.P. v. Manbadhan Lal Srivastava*, (1). Article 320(3)(c) is not mandatory and non-compliance with this provision does not afford a cause of action to civil servants in a Court of law. Absence of consultation or any irregularity in consultation will not entitle him to seek a relief by way of a writ petition under Articles 32 or 226 of the Constitution. However, if there are relevant regulations made under proviso to Article 320(3), they are meant to be followed in letter and spirit. In the absence of such binding regulations, non-compliance with the provisions of Article 320(3)(c) could not have the effect of nullifying the final order passed by the Government. That the same interpretation is applicable to clause (b) of that provision admits no doubt. In fact, the principle of the decision in *Manbodhan Lal Srivastava's case* (supra) was applied by a Full Bench of this Court in the decision reported as *Tuhi Ram Sharma v. Prithvi Singh and another*, (2), in respect of a case under Article 320(3)(b). It was held by the Full Bench that in cases of appointment by promotion from Subordinate Agricultural Service as District Agricultural Officer, non-compliance with the requirement of consulting Public Service Commission under Article 320(3)(b) does not affect the validity of appointment nor entitles the person aggrieved by such promotion to approach the High Court for relief under Article 226 of the Constitution.

(8) There are no regulations in this case, relating to consultations with the Public Service Commission but the learned counsel for the petitioner drew our attention to regulations 3 and 6 of the Union Public Service Commission (Exemption from Consultation) Regulations, 1958, which read as follows :—

“3. Save as otherwise expressly provided in the rules governing recruitment to the civil service or civil post concerned, it shall not be necessary to consult the Commission in regard to the Selection for appointment :—

- (a) to a post included in an All-India Service, of any officer who is already a member of All-India Service;
- (b) to a post included in a Central Service Group-A, of any officer in the Armed Force of the Union or any officer who is already a member of an All-India Service or a Central Service Group A;

(1) A.I.R. 1957 S.C. 912.

(2) A.I.R. 1971 Pb. & Hy. 297.

(c) to a Central Service, Group B, or to a post included in a Central Service, Group B, of any officer who is already a member of a Central Service, Group B, or a Central Service Group C, or of any officer in the Armed Forces of the Union ; and

(d) to a tenure post included in a Central Service Group A, or a Central Service Group B, of an officer of a State Service.

3. It shall not be necessary to consult the Commission in regard to any of the matters mentioned in sub-clause (e) of clause (3) of article 320 of the Constitution in the case of—

(a) a person belonging to an All-India Service or a Central Service, Group A or a Central Service, Group B in so far as claims arising out of injuries sustained at any time during which the proclamation, issued on 26th October, 1962, by the President under clause (1) of article 352 of the Constitution, remaining in operation, are concerned ; and

(b) a person belonging to Central Service, Group C, or a Central Service Group D.”

As may be seen from the provisions, this is one of the provisions exempting consultations with the Public Service Commission in the particular class of cases and in the particular circumstances referred to therein and has no reference to any positive requirement to consult. The learned counsel then referred to the Government India's decision referred to in GOI Cabinet Secretariat (Deptt. of Personnel and A.R.) Memo. No. 39011/2/S/75-Estt. (B) dated 14th March, 1977. This is stated to be a decision with reference to regulation 3 of the Union Public Service Commission (Exemption from Consultation) Regulations, 1958, referred to above. Read in the light of regulation 3, this decision of the Government could only be with reference to the recruitment to civil service or civil post concerned. This is not a case of recruitment. It is misnomer to call it a recruitment. The third respondent is selected to fill up a post by deputation. It is an ex-cadre post and he is selected only to fill up that ex-cadre post. It neither amounts to recruitment nor appointment to a post. Further, as has been admitted by the

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learned counsel for the petitioner that this post has been filed up right from the beginning of the constitution of Chandigarh as a Union Territory on and from 1st November, 1966 by deputationists and never before was there any consultations with the Union Public Service Commission. Also the third respondent has since been promoted as Chief Engineer in the parent Department and no question of any selection for promotion arises and he is in the category of a person who is already a member of the service. It is also doubtful whether Article 320(3) will apply in respect of cases of deputationists filling up posts in other Departments in *ex-cadre* posts. In the circumstances, we are of the view that there is no necessity for consulting the Union Public Service Commission before filling up the post of Chief Engineer, Chandigarh Administration. Even if there was any requirement of considerations with the Union Public Service Commission, having regard to the fact that the post was being filled up by deputationists right from the inception without consulting the Union Public Service Commission and, by reason of the doubt in the need for such consultations, we would consider that the non-consultations with the Union Public Service Commission, in the circumstances, shall be considered to be a mere irregularity not affecting the selection and posting. As held by the Supreme Court in *Manbodhan Lal Srivastava's case* (supra), this irregularity will not also give any right or cause of action to the petitioner to invoke the jurisdiction of this Court under Article 226 of the Constitution.

(9) In the result, the writ petition fails and it is dismissed. There will, however, be no order as to costs.

R.N.R.

Before V. Ramaswami, C.J. and J. S. Sekhon, J.

BAL RAJ AHUJA,—Petitioner.

versus

STATE OF PUNJAB AND ANOTHER,—Respondents.

Civil Writ Petition No. 5828 of 1983

May 10, 1988.

Constitution of India, 1950—Arts. 14, 31-A, 31-C and 300 A—
Punjab Land Reforms Act (Punjab Act No. X of 1973)—S. 10—
Constitutional validity of Land Reforms Act—Act included in Ninth