



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-3809-2018 (O&M)

SATWINDER SINGH

..Petitioner

Versus

STATE OF PUNJAB AND ORS.

..Respondents

Reserved on: 11.08.2026

Pronounced on : 03.09.2026

Uploaded on : 07.09.2026

Whether only the operative part of the judgment is pronounced?

NO

Whether full judgment is pronounced?

YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Parveen Chauhan, Advocate,
for the petitioner.

Ms. Arundhati Kulshreshtha, A.A.G., Punjab,
for respondent No.1.

Mr. Arshdeep Bhullar, Advocate,
for respondent No.2 and 3.

Mr. Abhinav Gupta, Advocate,
for respondent No.4.

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SUDEEPTI SHARMA, J.

1. The challenge in the present writ petition is to order dated 13.02.2017 passed by respondent No.2, whereby respondent No.4 has been selected for the post of Process Server under the Scheduled Caste Category, whereas, she had applied under the General Category.

2. Learned counsel for the petitioner contends that respondent No.4 applied for the post of Process Server under the General Category, but



she was selected for the said post under the Scheduled Caste Category. He further contends that petitioner also applied under Scheduled Caste Category, and he should have been appointed under Scheduled Caste Category. He, therefore, prays that present writ petition be allowed.

3. Per contra, learned counsel for respondents no.2 and 3 contends that respondent No.4 moved an application/representation on 11.01.2017, which is placed on record with the written statement by the respondents stating therein that she belongs to Scheduled Caste Category, but at the time of applying for the post, the said certificate was not traceable and since the last date for applying for the post was 21.12.2016, therefore, she applied under General Category. The request of the respondent No.4 was considered and her application along with Scheduled Caste certificate was ordered to be sent to the Recruitment Committee for further action.

4. Learned counsel for respondent No.4 contends that respondent No.4 is working since 2017. Further that it is not the case of the petitioner that he was not appointed because of respondent No.4 and otherwise also the petitioner was never selected by the Committee. He, therefore, prays that present writ petition be dismissed.

5. I have heard learned counsel for the parties and perused the whole file of this case with their able assistance.

6. A perusal of the file shows that applications were invited through public notice for filling up the posts of Clerk, Process Server and Peon lying vacant in the Office of District and Sessions Judge, Bathinda and the last date of submission of applications was up till 20.12.2016 by 04:00 p.m. The petitioner as well as respondent No.4 applied for the same. The



petitioner applied under Scheduled Caste Category, whereas, respondent No.4 applied in the General Category.

7. Though, respondent No.4 applied under General Category, she made a representation dated 11.01.2017 before the date of interview stating therein that she belongs to Scheduled Caste Category but at the time of applying for the post, the said certificate was not traceable and since the last date for applying the post was 21.12.2016, therefore, she had no other option but to apply under General Category. Along with the application, she placed on record the certificate of Scheduled Caste Category. Thereafter, she along with the petitioner was interviewed and the Recruitment Committee recommended the names of respondent No.4 for the post of Process Server under Scheduled Caste Category on the basis of experience/working attitude and willingness to work in different spheres. Admittedly, the petitioner was not selected by the Recruitment Committee. It is not the case of the petitioner that because of selection of respondent No.4, the petitioner is not selected. Admittedly, the petitioner was interviewed and was not selected by the Recruitment Committee.

8. Though, cut-off date is sacrosanct and the representation should not have been entertained and once respondent No.4 had applied under General Category, she should not have been allowed to change the category as per law laid down by Hon'ble Supreme Court in plethora of judgments, whereas, by ignoring the law, she was appointed and is working since 2017 i.e. almost 9 years.

9. The Hon'ble Supreme Court in **Roshni Devi Vs. State of Haryana, 1998(8) SCC 59** held as under:-



- “5. *Mr. Mahavir Singh, the learned counsel and all other learned counsel appearing for the appellants in respective appeals contended before us that the mandamus issued by the High Court in Sudesh Kumari's case cannot be annulled by a subsequent Full Bench judgment though the Full Bench may be competent to decide the questions of law earlier and in this view of the matter the directions given in the impugned judgment to the effect that the list prepared by the Selection Board in excess of the number of requisition which the Board has received cannot be held to be valid and operative and persons already appointed in excess of the said number are liable to evict their offices after the State Government considers their cases are without jurisdiction. According to the learned counsel a writ in the nature of mandamus issued by the High Court in a case can be nullified only by preferring an appeal to a higher forum and get the judgment reversed, but that course not having been adopted the impugned judgment of the Full Bench must be held to be without jurisdiction and at any rate it cannot nullify the rights accrued to the appellants by virtue of the judgment in Sudesh Kumari's case.*
6. *Mr. K.T.S. Tulsi, the learned senior counsel appearing for the respondent-State and the Service Selection Board on the other hand contended, that though on principle he will not be in a position to refute the contention advanced but in the case in hand this Court must consider the effect of judgment in Sudesh Kumari's case and must bear in mind the fact that an implementation of the direction of the High Court in Sudesh Kumari's case would make the future generations for years not to aspire for a job in the post of clerk and such direction is against the interest of the society. Mr. K.T.S. Tulsi, learned senior counsel also brought to our notice the different administrative*



circulars issued by the Government requesting the Service Selection Board only to prepare a list in excess of the requisition made by 25 person as well as the circular indicating that a list remains valid for a period of one year. We would have ordinarily persuaded to accept the contention raised by the learned counsel for the applicants in view of the finality that has been attached to the judgment of Punjab and Haryana High Court in Sudesh Kumari's case, no appeal having been preferred by the State against the said judgment and would have permitted the directions given therein to be worked out, but in view of the illegality and irregularities perpetrated by the said judgment and in view of the enormity of the impact which the judgment would have on the future generation of candidates aspiring for a job in the post of clerk we would modify the directions given by the Full Bench and while modifying the said directions and replacing them with our directions we bear in mind the fact that persons who have been appointed from out of the list prepared on 15.10.1989 have already served for more than 9 years. From the relevant circulars in the form of Administrative directions issued by the Government it can be safely said that life of a list remains valid for one year and, therefore, after expiry of the list normally a Court would not be justified in issuing direction to give appointments from the list whose life has already expired unless it is established that notwithstanding existence of vacancies the appointing authority mala fide did not make appointment from the list. We have also no hesitation to come to the conclusion that as against the requisition for 662 posts of clerk received by the Service Selection Board the Board committed gross illegality in selecting and preparing a list of 5373 candidates. Further mistake committed by the



Board was in sending the names of persons from the list not in order of their merit but at random as a result of which persons with higher merit securing higher position in the list stood excluded whereas persons securing lower merit got appointed. Having given our anxious consideration to all the facts and circumstances narrated above and having considered the fact that persons who may not have been appointed strictly in accordance with law have been appointed and continued in service for more than 9 years and further the fact that the direction in Sudesh Kumari's case not to get the list lapsed unless and until all persons from the list who are above the last man who has already been appointed are appointed which really seriously prejudice the interest of the future candidates and also jeopardises the administration to a great extent, we think it appropriate to issue the following directions in disposing of these appeals. We may at this stage notice the fact which was brought before us at the fag and of the hearing that in the year 1995 there has been a fresh test by the same Service Selection Board and again a large number persons have been included in the list and the High Court has given almost a similar direction as was one given in Sudesh Kumari's case. We, however, express no opinion on the legality of the said judgment particularly when we have not examined the same and the State also intends to challenge the same. The only purpose for noticing the aforesaid fact was to highlight that notwithstanding the judgment in Sudesh Kumari's case there had been a fresh advertisement and a fresh list has been prepared by the Service Selection Board and parties have claimed their rights on the basis of the inclusion of their names in the said lists. However, as stated earlier, bearing in mind all the relevant facts and circumstances and bearing in mind



the equity in favour of those who have already been appointed from out of the list prepared on 15.10.1989 and have served for more than 9 years we issue the following directions in substitution of the directions made by the High Court in the impugned judgment :-

- (1) The appointments already made from out of the list prepared on 15.10.1969 will not be annulled.*
- (2) The last person who is stated to have been appointed being at serial No. 4645, persons occupying higher position than him could be considered for appointment to the post of clerk if there exists any vacancy for them.*
- (3) The vacancy in this context would mean the vacancies which were available in the State of Haryana prior to the advertisement issued for selecting persons for the said post for the year 1995. It is to be made clear that if no vacancies exist on the aforesaid date then no further appointment would be made from out of the list prepared on 15.10.1989 notwithstanding the directions of the Punjab and Haryana High Court in Sudesh Kumari's case.*
- (4) If vacancies did exist on the date as aforementioned then the appointments from out of the list prepared on 15.10.1989 could be made strictly on the basis of their merit position in the list.*
- (5) We strongly deprecate the practice of selecting and preparing an unusual large list compared to the vacancy position and the State Government should either amend the Recruitment Rules in that respect and till then should issue positive administrative instructions giving the right to the Selection Board to select only some persons in excess than the requisition for which the Board is going to select people.*
- (6) We also do not approve of the inaction on the part of the State Govt. in not assailing the judgment of the*



Punjab and Haryana High Court in Sudesh Kumari's case and now coming up before us making submissions that the judgment is practically incapable of being implemented.

These appeals are disposed of accordingly. But in the circumstances there will be no order as to costs.”

10. Further the Hon’ble Supreme Court in **Md. Zamil Ahmed Vs. State of Bihar and others, 2016 AIR Supreme Court 2237** held as under:-

- “20. *The fact that the appellant was younger brother of the deceased was within the knowledge of the State. Similarly, the State was aware that the brother does not fall within the definition of dependent at the relevant time and still the State authorities obtained the undertaking from the appellant that he would maintain the family of the deceased once given the appointment.*
21. *In our considered view, the aforesaid facts would clearly show that it was a conscious decision taken by the State for giving an appointment to the appellant for the benefit of the family members of the deceased who were facing financial hardship due to sudden demise of their bread earner. The appellant being the only close relative of the deceased could be given the appointment in the circumstances prevailing in the family. In our view, it was a right decision taken by the State as a welfare state to help the family of the deceased at the time of need of the family.*
22. *In these circumstances, we are of the view that there was no justification on the part of the State to woke up after the lapse of 15 years and terminate the services of the appellant on such ground. In any case, we are of the view that whether it was a conscious decision of the State to give appointment to the appellant as we have held above or a case of mistake on the part of the State in giving*



appointment to the appellant which now as per the State was contrary to the policy as held by the learned Single Judge, the State by their own conduct having condoned their lapse due to passage of time of 15 years, it was too late on the part of the State to have raised such ground for cancelling the appellant's appointment and terminating his services. It was more so because the appellant was not responsible for making any false declaration and nor he suppressed any material fact for securing the appointment. The State was, therefore, not entitled to take advantage of their own mistake if they felt it to be so. The position would have been different if the appellant had committed some kind of fraud or manipulation or suppression of material fact for securing the appointment. As mentioned above such was not the case of the State.

23. *It is for this reason, we are of the view that action on the part of welfare State in terminating the appellant's service on such ground cannot be countenanced. We, therefore, disapprove the action taken by the State.*
24. *In the light of foregoing discussion, we allow the appeal, set aside the impugned orders and in consequence allow the writ petition filed by the appellant (writ petitioner) and quash the appellant's termination order dated 23.06.2005 (Annexure -P-4 of SLP).*
25. *As a consequence thereof, the respondent-State is directed to reinstate the appellant in service with all consequential benefits such as payment of full back wages payable from the date of termination (23.06.2005) till the date of reinstatement in service. The appellant is also entitled to claim his seniority and notional promotions as per rules. It be fixed accordingly.*
26. *Let the appellant be reinstated in service within a month as an outer limit and the arrears of back wages, as*



directed, be paid to the appellant within three months by the respondent-State.

27. *Cost of this appeal is quantified at L 5000/- and the same be paid to the appellant by the respondent-State along with the arrears of back wages.”*

11. In the present case, the representation made by respondent No.4 was entertained by respondents and it is not the case of the petitioner that she misled or there is any misrepresentation on her part to obtain the job even there is no dispute regarding the Scheduled Caste certificate attached by her along with the representation and after verifying the same, she was considered under the Scheduled Caste Category. Since she is working for almost 9 years, therefore, at this stage, it would not be in the interest of justice to remove respondent No.4 from service for no fault of her. Therefore, in view of the law laid down by Hon'ble Supreme Court as referred to above, I do not find any merit in the present writ petition.

12. Accordingly, the present writ petition is **dismissed**.

13. Pending miscellaneous application(s), if any, stand disposed of.

03.09.2026

Ayub/Saahil

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*