

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP No.18695 of 2011

Paramjit Singh and another

..... Petitioners

Versus

The State of Punjab and others

..... Respondents

2. CWP No.18871 of 2011

Harjit Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

Date of Decision: 05.02.2015

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Satbir Gill, Advocate,
for the petitioner.

Mr. Rajiv Prashad, Addl. AG, Punjab.

Mr. V.K. Sandhir, Advocate,
for respondent No.5 in CWP No.18695 of 2011.
for respondent No.4 in CWP No.18871 of 2011.

Mr. Amit Mehta, Advocate,
for respondent No.6 in CWP No.18695 of 2011.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

This order shall dispose of CWP No.18695 of 2011 titled

Paramjit Singh and another vs. The State of Punjab and others & CWP

No.18871 of 2011 titled *Harjit Singh vs. State of Punjab and others.*

If the petitioners claim benefit of horizontal reservation in the Physically Handicapped category after having applied under the general category, they cannot be made to change course through Court intervention.

The issue of inter-se seniority in Zila Parishad when all ETT teachers have been shifted to Punjab Education Department is no longer capable of being adjudicated either by Court or by the Administrator in the absence of the foundational fact that the category could not have been changed from general to horizontal reservation. It was open to the petitioners to have applied in the beginning in the category of persons with disabilities but they did not do so. The reason why this Court could not interfere in a case of horizontal reservation of the present kind is that there is neither re-allocation nor re-deployment in horizontal reservation as they may be in vertical reservation for members of the scheduled castes and backward classes. Posts earmarked for persons with disabilities advertised are filled on preference and choice exercised by an applicant which cannot be normally be changed subsequently without affecting third party rights which might have settled meanwhile in the selection and not open to be disturbed. It is open to a person with disability to apply in that reservation or not suiting his personal choice but this is unlike the reserved category which are capable of being re-allocated or re-deployed on open general merit leaving reserved category posts for vertically reserved category candidates.

No ground is made out for interference.

Dismissed.

It would, however, be open to the petitioners to assert their rights,

if any, in the general category merit list and to plead and show there is the fatal flaw in the seniority list which when corrected may bring fruit to them. If such a request is made it would be considered by the Government but without applying the principles attaching to horizontal reservation to merit/seniority. Such issues, if raised, would be decided strictly as per merit determined by the recruiting agency.

**(RAJIV NARAIN RAINA)
JUDGE**

05.02.2015
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