

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

CWP No. 24475 of 2012

Decided on : 11.08.2015

Madan Lal

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. P.K. Goklaney, Advocate for the petitioner.

Mr. Pankaj Mulwani, DAG, Punjab.

G.S. Sandhawalia , J. (Oral)

In the present writ petition the challenge is to the order dated 12.09.2012 (Annexure P-8), whereby the prayer of the petitioner of promotion to the post of Block Primary Education Officer (BPEO) against the quota of 3% reserved for physically handicapped persons has been denied by respondent No.3-District Education Officer.

The reasoning given in the impugned order is that out of the total 20 posts for District Ferozepur, 12 posts had already been filled and 8 were lying vacant. As per the roster which had been fixed for Group-A and Group-B posts candidate had to be given roster No.11/40/71 and therefore, no roster point comes to the credit of the petitioner.

A Division Bench of this Court in CWP No.5809 of 2010 titled as 'Youth Welfare Association Vs. State of Punjab and others' decided on 24.05.2010, directed that 3% posts be reserved for promotion of disabled persons, as per directions and guidelines

issued by the Ministry of Personnel dated 20.11.1989, and give promotion not later than six months.

Another Division Bench of this Court in CWP No.11467 of 2010 titled as 'Disabled Persons Association Vs. State of Punjab and another' decided on 06.09.2010 directed that 3% posts be reserved for disabled persons in Group-A and Group-B posts and issue necessary promotion orders not later than six months.

The State of Punjab vide instructions dated 05.07.2011 (Annexure P-3) issued necessary directions that reservation be given to handicapped employees in Government Service for promotion to Group-A, B and C directed that 1% post shall be reserved for blind and partially blind, 1% for deaf and dumb and 1% for physically handicapped and mentally retarded persons.

Admittedly, the petitioner is suffering from hearing disability having 86% permanent physical impairment, as per the certificate dated 13.02.2009 and falls for consideration within the said category. He had approached this court in CWP No. 15411 of 2011 and direction was issued on 23.08.2011 vide which his case was to be considered and which has now been rejected.

Counsel for the petitioner has rightly pointed out that as per Right to Information Act, 2005, the petitioner was informed that in District Ferozepur no handicapped BPEO was working and for the handicapped group separate posts have not been sanctioned and the roster is on 11/40/71 points. He has further rightly referred to the instructions dated 02.05.1997 regarding reservation of

vacancies in direct recruitment for physically handicapped persons. Clause-5 of the said instructions read as under:-

“ (5) The above percentage of reservation should be implemented by means of a 100 point roster and vacancies falling at point 11, 40 & 71 be reserved for the above three categories respectively.”

The purpose of the reservation is to give persons suffering from disabilities equality and participation in different employments which seems to have been overlooked by the respondent No.3 by passing the impugned order. Out of the 12 posts, which now occupied admittedly there is no other handicapped person who was appointed to the post of BPEO.

In such circumstances, the petitioner is entitled to be promoted at Roster No.11 and the person at No.12 can be considered at No.13 and no prejudice shall be caused to the said person. The reasoning, thus, which has been given is not justified.

Accordingly, the present writ petition is allowed. The impugned order dated 12.09.2012 (Annexure P-8) is quashed. The respondents are directed to consider the case of the petitioner for promotion to the post of BPEO and issue necessary instructions within a period of two months from the date of receipt of certified copy of this order.

In the above terms, the present writ petition is disposed of.

AUGUST 11, 2015
Naveen

(G.S. SANDHAWALIA)
JUDGE