

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

LPA-532-2015(O&M)

Date of decision : 26.08.2015

Sukhjinder Kaur

... Appellant

Versus

Guru Angad Dev Veterinary and Animal Sciences University,
Ludhiana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE S.S.SARON
HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.Rajinder Sharma, Advocate
for the petitioner.

Mr.H.N.S.Gill, Advocate
for respondent No.1.

Mr. S. C. Nagpal, Advocate
for respondent No.2.

None for respondents No.3 and 4.

S.S.SARON, J.

This appeal has been filed by the appellant Sukhjinder Kaur against the judgment and order dated 18.09.2014 passed by the learned Single Judge in CWP No.23730 of 2013.

The appellant and five other candidates applied for admission to the five years course in Bachelor Veterinary Science and Animal Husbandry ('B.V.Sc. & A.H.' - for short) in the Guru Angad Dev Veterinary and Animal Sciences University, Ludhiana ('respondent No.1 - University' - for short) for the Session 2013-14 against 2% seats reserved for the armed forces. The said reservation to the extent of 2% seats was provided for the armed forces quota in the respondent No.1 - University and the Khalsa College of Veterinary and Animal Sciences, Amritsar ('respondent

No.2 - College' – for short). Out of 60 seats for the first year of the five years B.V.Sc. & A.H. course, one seat fell to the share of the armed forces quota in respondent No.1 – University and one to the share of respondent No.2 - College.

Insofar as the present appeal is concerned, the following tabulation would show the position of the reserved seat available for the armed forces quota of the respondent No.1 – University after completion of admissions:-

<u>Sr. No</u>	<u>Roll No.</u>	<u>Name</u>	<u>Father's name</u>	<u>General rank</u>	<u>A.F. Rank</u>	<u>Admission category</u>
1	3534	Varinder Pal Singh	Mr.Malkit Singh	32	1	General (applied under A.F. Quota but on merit treated as General)
2	3494	Arpit	Mr.Rajesh Sachdeva	36	2	General (applied under A.F. Quota but on merit treated as General)
3	5040	Gurpal Singh	Mr.Narinder Singh	65	3	A.F. Under university (applied under A. F Quota, as per law was required to be treated as General being higher in merit than candidate at Sr.No.6)
4	3399	Anureet Kaur	Mr.Paramjit Singh Dhaliwal	110	4	Not admitted (could not produce certificates)
5	4996	Sukhjinder Kaur (Appellant)	Mr. Rashpal Singh	184	5	A.F. Private college (applied under A.F. Quota, was required to be admitted against Sr.No.3)
6	4669	Harpreet Kaur	Inderjit Singh	69	N/A	General(applied as General)

A perusal of the above shows that five candidates namely Varinder Pal Singh, Arpit, Gurpal Singh, Anureet Kaur and Sukhjinder Kaur (appellant) applied against the seats for armed forces quota. Out of them, Varinder Pal Singh and Arpit though applied against the seats for armed forces quota were adjusted against the seats of general category candidates being higher in order of merit. Gurpal Singh - respondent No.3 was admitted in respondent No.1 - University against the seat for armed forces quota. Anureet Kaur was ineligible for admission against the seat reserved for the armed forces quota because she could not produce her certificates. The appellant was admitted against the seat for armed forces quota in the Khalsa College of Veterinary and Animal Sciences Amritsar - respondent No.2.

The position now is that Gurpal Singh - respondent No.3 though is admitted against the armed forces quota seat, however, he can be treated as a general category candidate as he is higher in ranking on merit than Harpreet Kaur - respondent No.4 who is from the general category. The rank of Gurpal Singh - respondent No.3 in merit is 65, while the rank of Harpreet Kaur - respondent No.4 in merit is 69. Therefore, in case Harpreet Kaur - respondent No.4 is admitted against the seats for general category then Gurpal Singh - respondent No.3 is liable to be adjusted against the seats of general category being higher in merit. In such circumstances, Sukhjinder Kaur - appellant would be entitled to the seat of armed forces category in respondent No.1 - University.

Mr.H.N.S. Gill, Advocate, learned counsel appearing for

Guru Angad Dev Veterinary and Animal Sciences University,

Ludhiana - respondent No.1 submits that this process would upset the admissions that have been made; besides, Harpreet Kaur - respondent No.4 had surrendered her seat in the Khalsa College of Veterinary and Animal Sciences Amritsar - respondent No.2 and she appeared for the third counselling being conducted by respondent No.1 - University whereas the appellant Sukhjinder Kaur did not appear for the same.

Mr.S.C.Nagpal, Advocate appearing for respondent No.2 submits that Khalsa College of Veterinary and Animal Sciences Amritsar - respondent No.2 is running the B.V.Sc. & A.H. course and it would lose one seat which would affect its resources, therefore, though he has no serious objection if Sukhjinder Kaur - appellant is given admission in respondent No.1 - University. However, permission may be given to respondent No.2 - College for filling up one extra seat in case some candidate is eligible and ready to join by way of migration or otherwise.

After giving our thoughtful consideration to the matter, it is to be noticed that it is not the case of the respondents that Sukhjinder Kaur - appellant is ineligible for admission by transfer from respondent No.2 - College to respondent No.1 - University. The appellant though did not appear in the counselling, however, the respondent No.1 - University even did not intimate that a vacant seat would occur in case adjustment of the seat of armed forces quota consumed by Gural Singh - respondent No.3 is made against the general category seats. In fact where a candidate applies for seat against reserved quota but he comes higher in his own merit and can be adjusted in the general category then his seat

is not to be counted as reserved or his reserved seat is not to be treated as consumed and it is to be given to the next candidate in order of merit against the reserved quota seat. This process has been followed by the respondent No.1 – University itself which is evident from the fact that the candidates Varinder Pal Singh and Arpit who had applied against the armed forces quota were adjusted on their own merit against the seats of general category. Therefore, the same procedure was liable to be followed in the case of Gurpal Singh – respondent No.3 as well who is admittedly higher in ranking on merit than Harpreet Kaur – respondent No.4 who is admitted to the B.V.Sc. & A.H. five-year course against the general category.

It is also not in dispute that there are vacant seats with respondent No.1 - University. According to the chart supplied by Sh.H.N.S. Gill, Advocate, learned counsel for respondent No.1, two seats in the general category are vacant, therefore, by adjusting Gurpal Singh – respondent No.3 against the general seat, the seat of armed forces quota would fall vacant and the appellant Sukhjinder Kaur can be adjusted against the said seat of the armed forces quota. The adjustments to be made would not result in any prejudice or disruption of the five year B.V.Sc. & A.H. course that is being conducted as the appellant – Sukhjinder Kaur is not in any manner ineligible.

According to the learned counsel for the appellant, the appellant would save substantial amount of fee for the remaining years of her course. The fee structure for Private Veterinary College(s) is much higher inasmuch as the annual fees for non-

boarders is Rs.1,33,100/- against Rs.34,130/- of the respondent No.1 – University. Besides, the appellant by completing her course from the respondent No.1 – University would add to her *curriculum vitae* of having done her B.V.Sc. & A.H. course from the respondent No.1 – University. Therefore, we see no reason to decline admission/adjustment to the appellant to the respondent No.1 – University even at this stage especially when only technical pleas have been raised to decline her the admission/adjustment. It is also to be noticed that the appellant has been pursuing her cause in Court for seeking admission to the five year B.V.Sc. & A.H. course of the respondent No.1 – University. Moreover, no prejudice would be caused to Gurpal Singh – respondent No.3 in case he carries on with his five years B.V.Sc. & A.H. course as a general category candidate instead of as an armed forces category candidate.

Insofar as the claim of the Khalsa College of Veterinary and Animal Sciences Amritsar - respondent No.2 is concerned for allowing it to fill up another seat, it would be improper at this stage to issue such a direction. To adjust fresh students to the B.V.Sc. & A.H. course against the seat to be vacated by the appellant in the third year of the course would be improper. However, in case some candidate applies for migration in accordance with the respondent No.1 - University Calendar, then his case can be considered by the respondent No.2 - College in accordance with the rules and regulations applicable.

The learned Single Judge in dismissing the writ petition of the appellant inter alia observed that reservation to children of personnel of armed forces is a horizontal reservation; besides, the

reservation must be understood as only to insure the number of seats which are kept reserved which must be filled up by the criteria laid down for admission and they cannot be a separate benchmark or minimum marks for the reserved categories other than SC/ST candidate or physically handicapped candidate which would obtain a different consideration by virtue of recommendation of constitutional and statutory Commissions respectively. However, the position as has been noticed above with respect to a vacant seat being available on making adjustments by giving to the candidate of the armed forces quota a general category seat on his own merit in the general category was not considered. Therefore, the order of the learned Single Judge is not sustainable.

Accordingly, the appeal is allowed and judgment and order of the learned Single Judge is set aside and respondent No.1 – University shall make adjustment by giving vacant general category seat to Gurpal Singh – respondent No.3 and the armed forces quota seat vacated by him shall be given to the appellant by admitting her. It is made clear that the appellant shall not be entitled to refund or adjustment of any fee that has already been paid by her to the respondent No.2 - College. No costs.

(S.S.SARON)
JUDGE

(REKHA MITTAL)
JUDGE

August 26, 2015.
Davinder Kumar/amit