

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

**CWP No.11938 of 1994 (O&M)**

Date of Decision: 11.5.2016

Bawa Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

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

Present: Mr.Pardeep Kumar, Advocate for  
Mr.R.S.Riar, Advocate for the petitioner

Mr.Inqulab Nagpal, AAG, Punjab

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

**RAJIV NARAIN RAINA, J. (Oral)**

1. The selection made under advertisement issued on 21<sup>st</sup> December, 1987 inviting applications for recruitment of 40 posts of A Class Naib Tehsildar in Punjab State have been questioned in this petition. The issue raised depends on reservation within reservation. The petitioner claims that he belongs to Mazhabi Sikh which falls in the category of Scheduled Caste. He claims that Balmiki and Mazhabi Sikh have the first preference over other category of Scheduled Castes. The result was declared in 1990 and another lot in 1991. The Government accommodated four selected candidates under priority category i.e. victims of riots/terrorists' action who had applied in response to the advertisement. Thus four candidates were adjusted against the 40 vacancies advertised in this manner. Remaining vacancies were divided half and half amongst General Category and Reserved Category candidates. The petitioner relies on the instructions dated 8<sup>th</sup> April, 1980 which prescribe that 50% of the

total posts reserved in the category of Scheduled Caste shall be offered to

Mazhabi/Balmiki Sikhs, if available, as a first preference and for this purpose the merit list can also be disturbed. On these premises, the petitioner claims appointment as A Class Naib Tehsildar, towards which end he claims that five posts were exclusively meant for them. However, in the instant case, appointment letters were issued to 9 candidates belonging to the category of Scheduled Caste including four candidates coming from the Balmiki/Mazhabi Sikhs.

2. The grouse is that 5 reserved posts belonging to Balmiki/Mazhabi Category were filled to the extent of the advertised quota. The name of the petitioner fell at Sr.No.6 of the Select List. One Jaspal Singh who is also a Scheduled Caste Balmiki Mazhabi candidate could not be appointed since his candidature was cancelled. The petitioner claims this unfilled vacancy. Will a mandamus issue in 2016 to appoint the petitioner as A Class Naib Tehsildar with effect from 1987 or 1990/91 is the troublesome question to answer when rights are to be declared on the date of the petition. There are no interim orders on the order sheet protecting the petitioner's interests. In my considered opinion it is no longer possible to issue a mandamus to the State Government to fill up the unfilled vacancy being a dead ball and stale selection made in the years 1990/1991 against the advertisement of 1987. The selected candidates are not impleaded as respondents including the subsequent batches, if any, who are likely to be affected by any directions issued. Their seniorities in the cadre cannot be disturbed nor their further promotions.

3. Learned counsel for the petitioner states that the petitioner was contacted, but has not shown much interest to come forward to make an application for impleading any private respondents for final disposal of the matter after hearing them, in case they chose to come forward. Counsel says that

with the postal remarks that the petitioner does not reside at the given address.

No useful purpose would be served to await the appearance of the petitioner to show interest or to permit parties to be impleaded after 22 years. In the absence of persons likely to be affected no interference can be made in writ jurisdiction.

4. For the foregoing reasons, I find no warrant to interfere in this petition which is accordingly dismissed.

**11.5.2016**  
**MFK**

**(RAJIV NARAIN RAINA)**  
**JUDGE**