

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

1. **CWP No.1025 of 2014 (O&M)**
Date of decision: 08.08.2016

Balwinder Singh and others **..Petitioners**

Versus

Punjab State Power Corporation Ltd. & others **..Respondents**

2. **CWP No.9498 of 2014**

Sukhvir Singh and another **..Petitioners**

Versus

The State of Punjab and others **..Respondents**

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. H.S. Saini, Advocate
for the petitioners in CWP No.1025 of 2014.

None for the petitioners in CWP No.9498 of 2014.

Mr. Avinit Avasthi, AAG, Punjab
for respondent No.1-State in CWP No.9498 of 2014.

Mr. Girish Agnihotri, Sr. Advocate with
Mr. Arvind Seth, Advocate
for respondents No.1 and 2 in CWP No.1025 of 2014 and
for respondents No.2 and 3 in CWP No.9498 of 2014.

Mr. Sanjiv Pabbi, Advocate
for respondent No.3 in CWP No.1025 of 2014.

Daya Chaudhary, J.

This judgment of mine shall dispose of two petitions i.e., CWP
Nos.1025 and 9498 of 2014 as common question of law and facts are
involved. However, for the sake of convenience, the facts are being

extracted from CWP No.1025 of 2014.

The petitioners have approached this Court by way of filing the petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of impugned advertisement dated 20.12.2013 (Annexure P-5), whereby the respondent-Corporation has invited fresh applications from the candidates for 1000 posts of Lineman instead of considering the claim of the petitioners, who have already been interviewed for the said post in the year 2011, being illegal, arbitrary and violative of Articles 14 and 16 of the Constitution.

Briefly, the facts of the case as made out in the present petition are that the respondent-Punjab State Power Corporation Limited (hereinafter referred to as 'the Corporation') got published an advertisement on 14.01.2011 for inviting online applications from the eligible candidates to fill up 5000 (tentative) posts of Lineman on contract basis on consolidated salary of ₹10,000/-. In pursuance of said advertisement, the petitioners being eligible for the post of Lineman, applied before the last date. The respondent-Corporation conducted the counseling/interview of all the eligible candidates including petitioners, which started w.e.f.13.06.2011 onwards and on the basis of qualification and criteria, the final merit list of all the candidates was prepared but the same was not made public because of pendency of the litigation in this Court. During pendency of the proceedings of selection, one association, namely, "Ludhiana Hand Tools Association, Ludhiana" filed a public interest litigation before this Court by way of CWP No.4881 of 2011 alleging therein that the respondent-Corporation was filling up various posts illegally and arbitrarily including

the posts of Lineman without any requirement in view of report of Punjab

State Electricity Regulatory Commission. Vide order dated 19.07.2011 passed by this Court, a direction was issued to the respondent-Corporation to look into the matter and submit the report and the recruitment was also stayed till the submission of report. Thereafter, vide order dated 09.11.2011, the respondent-Corporation was granted permission to fill up 1000 posts of Lineman and said writ petition was admitted for regular hearing. The respondent-Corporation issued appointment letters to 1000 candidates whose names figured in first merit list as per their respective category. The petitioners could not be offered appointment as their names were not there in the first 1000 candidates. Thereafter, in pursuance of direction issued by this Court on 19.07.2011, respondent No.3 submitted its report on 19.09.2011 wherein it was stated that the respondent-Corporation should limit the essential requirement of recruitment of the Lineman/SSAs only to replace retiring employees. The aforesaid writ petition came up for final hearing on 27.11.2013 and the same was disposed of in view of the report submitted by respondent No.3-Commission. Respondent-Corporation was also directed to obtain guidelines/instructions beyond September 2011 from the respondent-Commission. Thereafter, respondent-Corporation again issued fresh advertisement dated 20.12.2013 inviting online applications for filling up 1000 posts of Lineman on contract basis on consolidated salary of ₹10,000/-. As per clause No.6, the maximum age limit of 39 years (including relaxation of 2 years of Apprentice duration) was prescribed keeping in view the judgment rendered by Hon'ble the Supreme Court in ***U.P. State Road Transport Corporation vs. U.P. Parivahan Nigam Shishukhs Berozgar Sangh and others, AIR 1955 SC 1115***. Again vide notification dated 08.10.2012, the normal upper age limit was increased

from 37 years to 38 years for direct appointment till the policy of extension in service by one year remains in force. Some of the candidates became ineligible being beyond age of 39 years and their applications were not accepted while applying online.

Clause No.6 of the impugned advertisement prescribing maximum age limit of 39 years has been challenged on the ground that it is contrary to notification dated 08.10.2012 issued by Government of Punjab and clause 9 being violative and contrary to the judgment of Hon'ble the Supreme Court rendered in **U.P. Parivahan Nigam Shishukhs Berozgar Sangh's case (supra)**.

Learned counsel for the petitioners submits that the action of the respondents is contrary to guidelines issued in **U.P. Parivahan Nigam Shishukhs Berozgar Sangh's case (supra)**. Petitioners were entitled for grant of age relaxation by considering the period of two years of apprenticeship training and the age limit must be relaxed upto 40 years in view of aforesaid judgment. Learned counsel also submits that initially, the proposal was to fill up 5000 posts of Lineman in the year 2011 and the petitioners being eligible for the said post, applied against said advertisement. They were interviewed by the respondent-Corporation and even the merit list was also prepared but only 1000 vacancies were filled up by the respondent-Corporation as per direction issued by this Court. The respondent-Corporation should have offered appointment to the candidates like the petitioners as they were waiting for appointment since the year 2011 and they could not be appointed because of pendency of the litigation before this Court. The action of the respondents is illegal and arbitrary as fresh

disposing of the petition, a liberty was also given to the respondent-Corporation to give permission for filling up the subsequent posts but instead of appointing from the earlier list of candidates, fresh advertisement has been issued.

Learned counsel for the respondent submits that the conscious decision was taken to fill up 1000 posts by way of fresh advertisement as the answering respondents were permitted to fill up 1000 posts only after filing of report by the Commission and when the public interest litigation was disposed of, fresh applications were invited through advertisement. Moreover, the validity of selection list was only for one year and the same had already expired. Learned counsel further submits that out of 1000 candidates, 955 eligible candidates were appointed as per merit and roster points. 45 candidates of Sports quota and physically handicapped quota were not found eligible as they did not fulfill the necessary conditions. Merit list of remaining 4000 candidates could not be released because of admission of CWP No.4881 of 2011 as no final decision was given by this Court with regard to filling up of these posts. Learned counsel also submits that CWP No.227 of 2014 was filed by Berojgar Linemen Union (Punjab) and others wherein quashing of public notice dated 20.12.2013 was sought and it was prayed that instead of preparing a fresh merit list on the basis of fresh applications, the respondent-Corporation be directed to issue appointment letters to the next meritorious 1000 persons on the basis of merit list. The judgment was pronounced and it was held that the selection list prepared would remain valid only for a limited period as provided under relevant rules and in case, the appointments are not made within the said period, then fresh selection is required to be made. In said case, no rules

were relied upon by the petitioners to show that the selection list would remain valid even for three-four years. Finding no merit, the said petition was dismissed on 02.07.2015.

Heard arguments of learned counsel for the petitioners as well as learned State counsel and have also perused the documents available on the file.

In the present case, directly or indirectly the same prayer has been made as in CWP No.227 of 2014 and the controversy in the present case is squarely covered by the decision passed in CWP No.227 of 2014, which was dismissed on 02.07.2015. The relevant portion of the said judgment is reproduced as under: -

“xxx xxx xxx

Thus, the advertisement CRA 267/11 has been read as being limited to 1000 posts of linemen. Such number of linemen had been appointed after the order dated 9.11.2011 of this Court. The posts permitted to be filled up in the subsequent years 2012-2015 as per the recruitment plan prepared by the PwC and approved by the Commission in its report dated 19.9.2011, cannot be filled up on the basis of CRA 267/11, as these have to be treated as future vacancies vis- a- vis this advertisement. For filling up these posts permitted to be filled in the years 2012 and 2013, rightly the impugned advertisement has been issued.

Further it is well settled that a selection list

prepared can remain valid only for such limited period as prescribed under the relevant rules. If appointments are not made within the said period, then fresh selection is required to be made. Usually the selection list has a validity of only one year. In the present case no rules have been relied upon by the petitioners to show that the selection list would remain valid even for three-four years. As the petitioners have failed to establish any right in this regard the petition merits dismissal on this ground as well.”

Accordingly, there is no merit in the contentions raised by learned counsel for the petitioners and the petitions i.e., CWP Nos. 1025 and 9498 of 2014 being devoid of any merit are hereby dismissed.

08.08.2016
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	√ Yes/No
Whether Reportable	√ Yes/No