

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA No.1203 of 2015 (O&M)
Date of Decision: 6.9.2016

Kanwardeep Singh

..Appellant

Vs.

State of Punjab and others

..Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE SUDIP AHLUWALIA**

Present: Mr. R.S.Thakur, Advocate for the appellant.

Mr. Anupam Singla, Advocate for the respondents.

SURYA KANT, J.

This intra Court Appeal challenges the order dated 29.4.2015 whereby learned Single Judge has dismissed the appellant's writ petition in which he sought a direction for appointment to the post of Manager (Accounts) in the reserved category (Backward Class).

(2) The facts are not in dispute. There were 12 posts for direct recruitment, which were initially advertised by the respondent-Corporation but due to intervention of this Court at the instance of in-service candidates, the direct recruitment was restricted to five posts only. Rest of the posts were required to be filled up by 'promotion' as per Statutory rules. The five posts meant for 'direct recruitment' have been segregated by the Corporation amongst Scheduled Castes (two) and General Category (three). Since no post out of these five posts was reserved or filled up from amongst Backward Class candidates, the aggrieved appellant approached this Court.

Judge was as to how the five posts meant for direct recruitment were to be filled from amongst different reserved categories?

(4) It is not in dispute that the Reservation Policy as well as roster system prescribed by Government of Punjab, is applicable in the Respondent-Corporation also. The Reservation Policy provides the following roster system for the purpose of appointment by direct recruitment or transfer in Class I, II, III and IV also known as Group A, B, C and D service.

“(i) VACANCIES FILLED BY THE METHOD OF DIRECT RECRUITMENT OR BY TRANSFER IN CLASS I, II, III AND IV NOW CALLED GROUP A, B, C AND D SERVICE AND SERVICES.

Vacancies falling at following points of 100-points roster will be treated as reserved for the members of Scheduled Castes:-

1, 5, 9, 13, 17, 21, 25, 29, 33, 37, 41, 45, 49, 53, 57, 61, 65, 69, 73, 77, 81, 85, 89, 93 and 97 and so on.

Vacancies falling at serial number 15, 35, 55, 75 and 95 upto 29.12.1996 and on and after 30.12.1996 roster points No.8, 16, 24, 35, 42, 48, 56, 64, 72, 80, 88 and 96 shall be treated as reserved for the members of Backwards Classes/OBCs.”

(5) Separate roster points have been prescribed to fill up the posts by promotion as may be seen from condition (ii) of the Policy, which reads as follows:

“(ii)VACANCIES FILLED BY PROMOTION TO OR WITHIN CLASS I AND II NOW GROUP “A” AND SERVICES OF GROUP “B” WHICH WERE EARLIER IN CLAS II (GAZETTED) SERVICES BY SELECTION OR BY SENIORITY-CUM-FITNESS:-

Vacancies occurring from time to time falling against the following serial numbers of the 100 point roster shall be treated as reserved for the members of Scheduled Castes:-

1, 7, 15, 22, 30, 37, 44, 51, 58, 65, 72, 80, 87, 94 and so on.

Vacancies falling at serial numbers 26 and 76 shall be treated

as reserved for the members of Backward Classes upto 15.11.1997 only and there is no reservation for BCs/OBCs in promotions thereafter.”

(6) The above reproduced roster points reveal that posts No.1 and 5 (as there were total 5 posts) were to be filled from amongst Scheduled Caste candidates whereas the posts at serial numbers 2, 3 and 4 are to remain unreserved, namely, for open category. As regards Backward Class/OBCs, the first roster point falls at serial No.8.

(7) The Corporation has admittedly appointed two candidates from the Scheduled Caste Category and three from General Category as per the roster points.

(8) The claim of the appellant, on the other hand, is that roster points need to be applied keeping in view the entire cadre strength of 20 posts which includes 75% promotion quota also. On this premise, it is urged that if the roster points are to be applied keeping in view the total cadre strength in that case one post, out of total twelve posts is to be filled from amongst Backward Class. Hence, the appellant is entitled to appointment against that post.

(9) Having heard learned counsel for the parties and after going through the record, we do not find any merit in the above-stated contention. There are separate roster points provided for “direct recruitment/transfer” as well as for appointment by “promotion.” Such roster points cannot be merged for the purpose of direct recruitment alone as the appellant cannot occupy by direct recruitment a post which eventually would go to a Backward in-service candidate who might be eligible for promotion as Manager (Accounts) against the reserve point. If the appellant's plea is

accepted then the reservation for Backward Class in the direct recruitment

category would exceed far in excess to the maximum reservation prescribed under the policy. The purpose of roster points is to ensure adequate representation of different reserved categories as per their respective reservation under the Policy. The roster points are the instruments to give effect to the Reservation Policy, they cannot overpower the Reservation Policy and lead to excessive or lesser representation of different categories in the overall cadre. It is only when the direct recruitment beyond 5 posts would be made that the occasion to consider the claim of a Backward Class candidate will arise for consideration.

For the reasons afore-stated, we do not find any merit in the appeal which is accordingly dismissed.

(SURYA KANT)
JUDGE

(SUDIP AHLUWALIA)
JUDGE

6.9.2016
Meenu

Whether speaking/reasoned	-	Yes/No
Whether Reportable	-	Yes/No