

**RA-CW No.42 of 2015 (O&M) in
CWP No.20605 of 2012
CWP No.16983 of 2012 (O&M)
CWP No.13133 of 2012 (O&M)
CWP No.17868 of 2012
CWP No.8124 of 2013**

-1-

**254 RA-CW No.42 of 2015 (O&M) in
CWP No.20605 of 2012
CWP No.16983 of 2012 (O&M)
CWP No.13133 of 2012 (O&M)
CWP No.17868 of 2012
CWP No.8124 of 2013**

Navpreet Kumar vs. State of Punjab and others

Present: Mr. G.S. Bal, Sr. Advocate,
with Mr. A.D.S. Bal, Advocate,
for the applicant in RA-CW No.42 of 2015.

Mr. D.S. Patwalia, Sr. Advocate,
with Mr. B.S. Patwalia, Advocate,
for the applicant-petitioners in
CWP Nos.16983 and 13133 of 2012.

Mr. Harkesh Manuja, Addl. AG, Punjab.

Mr. R.S. Bains, Advocate,
for respondents No.6 to 8 in CWP No.16983 of 2012.

Ms. Ravinder Pratap Kaur, Advocate,
in CWP No.8124 of 2013.

In compliance of directions issued by this Court Mr. Harkesh Manuja Addl. AG, Punjab has filed a reply by way of a short affidavit of Mr. Kripa Shanker Saroj, Secretary to Government Punjab, Department of Welfare of Scheduled Castes and Backward Classes in Court which is taken on record. Copies thereof have been supplied to the respective counsel and the contents have been perused.

The learned Senior counsel Mr. G.S. Bal appearing in the review application and other counsel in the connected writ petitions have adverted

**RA-CW No.42 of 2015 (O&M) in
CWP No.20605 of 2012
CWP No.16983 of 2012 (O&M)
CWP No.13133 of 2012 (O&M)
CWP No.17868 of 2012
CWP No.8124 of 2013**

-2-

to the averments contained in para.10 of the affidavit wherein there is a categorical admission by the State of Punjab that reservation to Vimukat Jatis is post-based and not based on vacancies. This was the legal position canvassed in these petitions and in view of this admitted view and interpretation placed by the State itself on the policy statement in moot letter dated 20.12.2001 nothing remains to be determined by this Court or to persuade it to hold by any stretch of imagination or logic that reservation of Vimukat Jatis should be based on vacancies. Given 20% reservation to Vimukat Jatis, if not post based posts will be rendered illusory and nugatory, where in a given recruitment process vacancies are advertised wholesale numbering at least 50 of them remain unfilled in order to find a berth for one Vimukat Jati candidate.

In the affidavit, it has been maintained unequivocally that there are at least five departments of the Punjab Government where appointments have been offered to Vimukat Jatis after the executive policy notification dated 20.12.2001 came into force and at least 13 candidates belonging to Vimukat Jatis have been appointed as Doctors, Inspectors, Supervisors, Drivers and Constables/Sub Inspectors in the departments of Health and Family Welfare, Department of Food and Supplies, Punjab, Department of Social Security of Women and Child Development, Excise and Taxation and Punjab Police under the control of the office of the Director General of Police, Punjab. These appointments have been made in 2015. Besides, it has been stated in the short affidavit that in the past, five Nurses belonging to

**RA-CW No.42 of 2015 (O&M) in
CWP No.20605 of 2012
CWP No.16983 of 2012 (O&M)
CWP No.13133 of 2012 (O&M)
CWP No.17868 of 2012
CWP No.8124 of 2013**

-3-

Vimukat Jatis were appointed in 2013 in addition to the posts figuring in Annex R-1 to the affidavit.

Mr. Manuja states that he has acquainted himself with the original record brought by the department from where it is revealed that the number of posts mentioned in Annex R-1, were utilized against 2% of the total posts advertised in the respective recruitment processes conducted for filling vacant posts in the various departments of the Government.

In view of the stand of the State in the short affidavit filed today in Court, the review application is allowed since the contents of the affidavit alters materially the factual position with regard to the interpretation of the policy statement on reservation for Vimukt Jatis. Therefore, the observations made by me in paras.5, 6, 7, 9, 10 & 11 of the judgment and order are rendered obiter and the assumptions in law made in the order in review are presently inconsistent with the stand of the State as presented today and the past administrative precedents in the State Government mentioned in the affidavit which indicate to the contrary the position in law that reservation is against the total number of posts and not the vacancies advertised for direct recruitment.

Accordingly, the review application is allowed and the order on the point in issue is recalled. The case would be heard afresh on merits.

Main Case

List as per roster.

A photocopy of this order be placed on the files of the connected

**RA-CW No.42 of 2015 (O&M) in
CWP No.20605 of 2012
CWP No.16983 of 2012 (O&M)
CWP No.13133 of 2012 (O&M)
CWP No.17868 of 2012
CWP No.8124 of 2013**

-4-

cases.

**(RAJIV NARAIN RAINA)
JUDGE**

30.09.2016
manju