

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

CWP No.5134 of 1999 (O&M)

Reserved on:12.07.2017

Date of Decision: 11.08.2017

Kanwaljeet Kaur & others

--Petitioners

Versus

PSEB & others

--Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. B.S. Patwalia, Advocate for the petitioners.

Mr. P.S. Thiara, Advocate for respondents.

TEJINDER SINGH DHINDSA, J.

Petitioners, who are three in number instituted the present writ petition in the year 1999 seeking a writ of mandamus for directing the Erstwhile Punjab State Electricity Board (hereinafter to be referred to as 'the Board') to appoint them as Junior Engineers (Electrical) against the posts reserved for women candidates.

Mr. B.S. Patwalia, learned counsel during the course of arguments made a categorical statement that he is pressing the instant petition qua petitioner No.2 alone. The writ petition qua petitioner Nos.1 and 3, as such, stands dismissed.

It has been submitted that the Government of Punjab, Department of Social Security and Development of Women and Children had issued Circular dated 30.12.1996 (Annexure P-1) on the subject of reservation for Women in Government Departments as well

as in Corporations and Boards and as per such Circular, a minimum of 30% of all the posts in all classes i.e. Class I, Class II, Class III and Class IV were reserved for them. It is pleaded that the Board also adopted the Circular dated 30.12.1996 issued by the State Government vide letter dated 27.02.1997.

The Board issued an advertisement in the month of October, 1997 inviting applications for recruitment to various posts including 200 posts of Junior Engineers (Electrical). Last date for submission of applications was fixed as 28.11.1997. Petitioner No.2 applied for the post of Junior Engineer (Electrical) in the general category. Written test was conducted on 12.07.1998 and the result was declared by the Board on 14.07.1998. However, petitioner No.2 was not called for the interview.

Precise grievance raised in the petition is that against 200 posts of Junior Engineers having been advertised, 60 fell to the share of women candidates as per reservation provided under Circular dated 30.12.1996 issued by the State Government and adopted by the Board, yet only about 15 women candidates had been called for the interview.

It is submitted by counsel representing the petitioners that the Board is taking shelter on a Circular dated 22.10.1998 (Annexure P-7) and as per which, the initial Circular providing reservation of 30% in favour of women candidates had been kept in abeyance. Precise argument raised is that Circular dated 22.10.1998 (Annexure P-7) cannot have retrospective operation and would have no applicability to

a recruitment process that already stood initiated prior in point of time.

In the written statement filed on behalf of the Board, a stand has been taken that a Memo dated 26.02.1998 had been received from the Personnel Administrative Reforms Department, State of Punjab (Annexure R-1 along with the reply) and it is in the light thereof that the matter had been reconsidered and reservation had not been provided.

Counsel for the parties have been heard at length.

The Memo dated 26.02.1998 at Annexure R-1 along with written statement would disclose the basis for not having given effect to the initial Circular dated 30.12.1996 providing reservation to the extent of 30% in favour of women candidates. It has been stated that by providing reservation to the extent of 30%, the total reservation would come to 65% and as such, having exceeded the 50% figure would not be legally valid. In other words, even if, the contention raised by counsel appearing for petitioner No.2 as regards the retrospective effect of Circular dated 22.10.1998 (Annexure P-7) is taken to be meritorious, yet there would be an issue as to whether total reservation beyond 50% is permissible in law.

In the considered view of this Court, the broad questions arising in the instant petition would be merely academic as the entire recruitment process initiated in the light of the advertisement issued in October, 1997 stood finalized in the year 1998 itself. The candidates, who have successfully negotiated the selection process were issued

appointment letters more than 15 years back. Their appointments cannot per se be treated as illegal. Acceptance of the prayer made in the present petition to apply 30% reservation in favour of women candidates would entail recasting the entire select list. This would virtually amount to unsettling settled matters. It would be too late in the day to turn the clock back and to reopen the entire selection process.

In view of the peculiar facts and circumstances, no interference in the matter is called for and the writ petition is dismissed.

11.08.2017*harjeet***(TEJINDER SINGH DHINDSA)****JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |