

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

CWP-3259-2015 (O&M)
Date of decision: 11.12.2017

Navpreet Kumar & others

... Petitioners

Vs.

State of Punjab & others

... Respondents

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

Present: Ms. Alka Chatrath, Advocate for the petitioners.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

Learned State counsel has filed in Court today Additional Affidavit dated 11.12.2017 of the Deputy Director, Agriculture (HQ), Punjab along with Annexures A, B and C in pursuance to the order dated 14.10.2017 passed by this Court. The same is taken on record. Copy thereof has been furnished to the counsel opposite.

With the consent of the counsel for the parties the main writ petition is taken up for final disposal today itself.

The Punjab Agriculture University, Ludhiana issued Public Notice dated 29.10.2011 inviting applications from eligible candidates for filling up 154 posts of Agriculture Development Officers (ADOs) in the Department of Agriculture. The category wise bifurcation of the posts was given in the advertisement itself. Out of the total 154 posts advertised, 20 were reserved for SC (M&B) and 19 posts for SC (R&O) category.

Petitioners herein belong to the SC (R&O) category. They had

applied in response to the Public Notice/advertisement and subjected themselves to a process of selection.

It so transpires that the selection carried out and the merit prepared was category wise. In other words, the respondent/authorities had proceeded in violation of the dictum laid down by the Hon'ble Supreme Court in **R.K. Sabharwal Vs. State of Punjab, 1995 (2) SCT 646** as also a Division Bench judgment of this Court in **Jaskaran Singh Vs. State of Punjab, 1995 (2) SCT 65**, whereby the respondent/authorities were otherwise obligated to prepare in the first instance the common merit list irrespective of the categories and offer appointments strictly in order of merit. In the eventuality of any reserved category candidate coming within the zone of consideration for appointment on merit, such reserved category candidate was to be considered against the open/general category. By virtue of such adjustment of a reserved category candidate for the open category, the quota/posts earmarked for the reserved category would remain intact. Thereafter, the category wise selection was to be carried out by seeing the merit position inter se the candidates belonging to the respective category. The category wise selection carried out by the respondent/authorities became a subject matter of challenge by certain candidates in CWP-18098-2012, CWP-20467-2012, CWP-18401-2012 and CWP-19945-2012.

This Court in the afore noticed writ petitions passed order dated 22.10.2014 and the operative part of which reads as follows:

“On request of the learned counsel for the State, adjourned to 07.01.2015.

In case the necessary employment is not offered to the petitioners as per their claims based on the judgments of the

Hon'ble Supreme Court and this Court within a period of 10 days from today, the Court would visit the respondents with costs which will be determined at Rs.1 lakh per petitioner.

Needless to say that the respondents would be expected to take into consideration the fact that none of the incumbents who have been appointed need not be disturbed as they have not practiced any deceit on the State and it is only on account of the fault of the officials that situation of this sort has been created.

A photocopy of this order be placed on the files of all aforesaid connected cases”

In pursuance to the order passed by this Court, 10 candidates of SC (R&O) category and who had secured a higher merit position than the last selected candidate in the general category, were shifted to the general category. As a direct consequence, the 10 candidates from amongst the SC (R&O) category next in order of merit were offered appointment.

In an additional affidavit dated 11.12.2017 filed in Court today of the Deputy Director, Agriculture (HQ), Punjab, it has been admitted that 8 candidates from SC (R&O) category out of the 10 afore noticed have joined service but two candidates, who were offered appointment did not join and their names being Sh. Jatinder Kumar S/o Sh. Munshi Ram, securing 43.18 marks and Sh. Parmeshar Kumar S/o Sh. Chajju Ram, securing 41.68 marks.

It has further been deposed in the affidavit that the present petitioners fall at Sr. Nos.33, 36, 37 and 32 respectively as per merit determined in the SC (R&O) category. Appointment letters up to rank No.29 already stand issued. Further stand taken on behalf of the State is that the candidates at Sr. Nos.30 and 31 are higher in order of merit as compared to the petitioners herein and as such, would have a prior right to be appointed.

Counsel for the parties have been heard.

Concededly, the petitioners were eligible for the post of Agriculture Development Officers (ADOs). They were permitted to participate in a process of selection. In the inter se merit determined pertaining to SC (R&O) category, their names figure at Sr. Nos.33, 36, 37 and 32 respectively.

Even though, the recruitment process had been initiated in the year 2011, yet the respondent/authorities carried out the exercise as per dictum laid down by the Apex Court in **R.K. Sabharwal's case (supra)** as regards vertical reservation in the year 2014. This has concededly resulted in candidates belonging to the SC (R&O) category and who secured higher merit position than the last selected candidate in the general category to be shifted to the general category. Consequent thereto, the 10 candidates next in order of merit in the SC (R&O) category have been offered appointment. Two candidates have chosen not to join.

On a specific query having been put to learned State counsel, the response upon instructions from Sh. Gurvinder Singh, Deputy Director, Agriculture (HQ), Punjab is that there is no impediment that the State is facing in offering the two vacant posts to the candidates next in order of merit.

Under such circumstances, the instant writ petition is disposed of with directions to the respondent/department to offer the two remaining posts of Agriculture Development Officers in the SC (R&O) category to the candidates next in order of merit as per merit determined in the SC (R&O) category by following a process warranted in accordance with law.

Such process be finalized within a period of eight weeks from today.

Similar situation also arises in relation to BC category candidates. The affidavit dated 11.12.2017 discloses that by applying the principle of vertical reservation, 13 candidates from BC category were appointed in the general category. Consequently, the same number of candidates next in order of merit in the BC category were offered appointment and out of which two have chosen not to join. Resultantly, as of date, there are two vacant posts of Agriculture Development Officers in the BC category.

The directions given by this Court as regards SC (R&O) category would be complied with even in the case of BC category.

It is further clarified that in the eventuality of the petitioners securing appointment on account of their merit position determined in their respective category i.e. SC (R&O) or BC category, such appointment would relate back to the date when other candidates from the same category had been appointed to the post in question. However, petitioners in that case would not be entitled to the salary for the period they have not worked against the post.

Disposed of.

11.12.2017

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No