

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CM. No. 145 of 2017 in**
CWP No.8036 of 2016 (O&M)
Date of Decision: 19.01.2017

Shakti Singh & another

...Petitioners

Vs.

Institute of Banking Personnel Selection & others

...Respondents

2. **CM. No.144 of 2017 in**
CWP No.9402 of 2016 (O&M)
Date of Decision: 19.01.2017

Neeru Duhan

...Petitioner

Vs.

Institute of Banking Personnel Selection & others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present:- Mr. Ashwani Talwar, Advocate
for the petitioners.

Mr. Madan Gupta, Advocate
for respondent No.1 (in both cases)

Ms. Bhupinder Kaur, Advocate
for Mr. Kapil Kakkar, Advocate
for respondents No. 2 and 3 (in CWP No. 8036 of 2016)

Mr. Ravi, Advocate
for Mr. K.P.S. Dhillon, Advocate
for respondent No.2 (in CWP No. 9402 of 2016)

Mr. Bhupender Singh Chauhan, Advocate
for respondent No.3 (in CWP No.9402 of 2016) &
for respondent No.4 & 5 (in CWP No.8036 of 2016).

Mr. Mukesh Kumar Bhatnagar, Advocate
for respondent No. 6 (in CWP No. 8036 of 2016)

RAJIV NARAIN RAINA, J. (Oral)

This order will dispose of CWP No. 8036 of 2016 titled as

“Shakti Singh & another v. Institute of Banking Personnel Selection & others” and CWP No. 9402 of 2016 titled as *“Neeru Duhan v. Institute of Banking Personnel Selection & others”* as common issues are involved in both, it can be decided by a common order.

CM. No. 145 of 2017

The application is allowed. W/s has been filed on behalf of respondent No.1, which is taken on record. Copy supplied.

CWP No.8036 of 2016

Heard. The incontrovertible factual position is that the petitioner No.1 has secured higher merit than respondent No. 6 and 7 in the recruitment of Probationary Officers in a combined examination conducted by the Institute of Banking Personnel Selection-Respondent No.1 for direct appointment of Probationary Officers in participating Banks, while petitioner No.2 is in tie with respondents No. 6 and 7. During the pendency of the petition, petitioner No. 2 has been offered appointment and is stated to have joined the Bank of Baroda-Respondent No.3.

Depriving petitioner No. 1 of appointment and keeping his petition pending even for a single day would cause prejudice and injury to him when admittedly he has secured higher merit in open competition than a selected candidate who has joined as a Probationary Officer.

There is no dispute left for determination in this petition. In view of the factual matrix, the writ petition is allowed with a mandamus issued to all the the participating Banks that in one of those Banks, the petitioner No.1 should be appointed after completing necessary formalities including medical check-up, background and character verification etc.

Let the exercise be completed within one month from the date of receipt of a certified copy of this order either from the Court or from petitioner No.1, whichever is earlier. On appointment, the petitioner No.1 will take his rank and seniority from his merit position and as per rules in the same batch in whichever participating Bank he is appointed to serve, be it the Bank of Baroda.

CM. No. 144 of 2017 in CWP No.9402 of 2016

The application is allowed. W/s has been filed on behalf of respondent No.1, which is taken on record. Copy supplied.

CWP No.9402 of 2016

In this case the petitioner is higher in merit position than respondent No.4 who has been appointed to service of the Bank of Baroda- Respondent No.3. The only difference between the two cases is that the first one involves Probationary Officers while this involves appointments in the Clerical Cadre.

It may be noticed that Respondent No.1-Institute represented by Mr. Madan Gupta, Advocate is an independent agency to which the combined recruitment was entrusted and out-sourced to conduct the examinations etc. and draw the inter se merit list of the candidates in each category as per law after holding and concluding the selection process and forwarding its recommendations to the participating Banks. Because of the wrongful actions of the respondent Banks depriving them of their hard earned merit, the petitioners will therefore be entitled to arrears of salary from the date of filing of the petition. Such measures, the law regards as restitutionary claims based on equitable principles to reverse fruits of labour

withheld with the wrongdoer called upon to refund the price he would have had to pay but for denying appointment for the wrong reason. A party cannot be allowed to take advantage of his own wrongs.

The directions issued in these two cases will be applicable to the official respondents for taking all necessary steps that they might have to take to implement this order.

The order be implemented within the time framed fixed in the order.

This petition is allowed *mutatis mutandis* in the same terms as the first.

(RAJIV NARAIN RAINA)
JUDGE

19.01.2017
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>