

**206 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(1)

CWP No.1895 of 2011.

Date of Decision: 19.02.2018.

Preet Kanwar Singh Sandhu

... Petitioner

Versus

State of Punjab and others

... Respondents

(2)

CWP No.12324 of 2011.

Duarka Dass

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Ms. Alka Chatrath, Advocate,
for the petitioner in CWP No.1895 of 2011.

Mr. H.C. Arora, Advocate,
for the petitioner in CWP No.12324 of 2011.

Ms. Sudeepti Sharma, Addl. AG, Punjab.

Mr. Sapan Dhir, Advocate,
for respondent No.4 in CWP No.1895 of 2011.

Mr. Sandeep Khunger, Advocate,
for respondent No.5 in CWP No.1895 of 2011
for respondent No.3 in CWP No.12324 of 2011.

Ms. Jyoti Sareen, Advocate,
for respondent No.6. In CWP No.1895 of 2011.

JITENDRA CHAUHAN.J.

This judgment shall dispose of afore-mentioned two
civil writ petitions as common questions of law and facts are involved
in both the petitions.

Challenge in these civil writ petitions is laid to the

combined merit list for the posts of Sub-Divisional Engineer (in short “the SDE”) SDE (Civil/Mechanical) (Annexure P-3 and P-3/A) prepared by respondent No.2.

It has been pleaded that respondent No.2 had issued advertisement dated 08.08.2009 (Annexure P-1) inviting applications for direct recruitment for 50 posts of S.D.E (Civil & Mechanical) in the water Supply & Sanitary Department, Punjab. Out of 50 posts, 45 posts were meant for SDE (Civil) and 5 posts for SDE (Mechanical). Out of total 50 posts, five were reserved for the members of Scheduled Castes category, Punjab. The petitioners are members of the Scheduled Caste, Punjab category. The petitioners offered their candidature for the posts of SDE (Mechanical) whereas, the private respondents applied for the posts of SDE (Civil) in the Scheduled Caste, Punjab category. After conducting examination, respondent No.2 prepared a combined Merit List Annexure P-3/A whereafter, the private respondent Nos. 4 to 6 and other successful candidates were issued appointment letters. In the examination, petitioners Preet Kanwar Singh Sandhu and Duarka Dass secured 69.35 marks and 70.41 marks respectively whereas, the private respondents, namely Rohit Kumar, Raivarinder Singh and Lovedeep Singh secured 68.09 marks, 67.22 marks and 66.22 marks respectively. Despite the fact that the petitioners secured higher marks, they have not been offered appointments.

As per the stand taken by respondent Nos.1 and 3, a joint seniority list of Civil and Mechanical Engineers is being

maintained by the department as per the orders of this Court passed in CWP No.15240 of 2000 titled as “Surinder Singh vs. State of Punjab and others”. The work of the department is mainly of civil nature which mostly requires the services of Civil Engineers. The candidates have been appointed as per their seniority. The petitioners applied for the post of SDE (Mechanical), they cannot challenge the claim of private respondents who have been appointed as S.D.E (Civil).

As per the stand taken by the private respondents, the petitioners had applied for the posts of S.D.E (Mechanical) whereas, the respondents had applied for the post of S.D.E.(Civil). The qualifications of the petitioners and the answering respondents are altogether different.

It is contended by the learned counsel for the petitioner(s) that the petitioners are higher in merit; there is no distinction between the post of SDE(Civil) and SDE (Mechanical) and; administrative instructions cannot go against the rules.

On the other hand, the learned State counsel contends that vide administrative order, Annexure P-4, it has been clarified by the department that out of 50 posts, 45 posts would be filled up from Civil Engineers and 5 posts would be filled up from Mechanical Engineers. The petitioners had applied for the post of SDE (Mechanical) whereas, the private respondents and other successful candidates are the candidates for the posts of S.D.E.(Civil). No person with lesser marks from the stream of the petitioners has been appointed

as SDE.

Heard.

A perusal of the case file along with relevant rules reveals that 50 posts of SDE (Civil and Mechanical) were advertised by respondent No.2. Out of the said number of posts, 5 posts were reserved for Scheduled Castes, Punjab category. The petitioners are members of the Scheduled Caste, Punjab. They applied for the posts of SDE (Mechanical) whereas, the private respondents had applied for the posts of SDE (Civil). The petitioners are seeking parity with the other stream i.e. SDE (Civil). It is not the case of the petitioners that any junior candidate in the SDE (Mechanical) list has been appointed as against them. This Court is of the opinion that since the streams are different, the petitioners' claim to be higher in merit to the Private respondents, who are in the different streams is of no consequence.

In view of above, the present writ petitions are dismissed.

19.02.2018.

SN

(JITENDRA CHAUHAN)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No