

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

CWP 16026/2018

Date of decision:12.11.2018

Bakhshish Singh

.....Petitioner

v.

State of Punjab and others

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Nitish K.Vasudeva,Advocate for the petitioner
 Mrs.Anu Chatrath Kapur,Addl.AG Punjab for official
 respondents assisted by
 Ms.Jasleen Kaur,Secretary PPSC

Jaswant Singh,J,(Oral).

1. Petitioner claims to be belonging to SC (R&O) category as also outstanding sports person being a Gold Medalist in Cycling at the national level. His grievance is that one post of DSP which was reserved for SC (R&O) and sports category at the time of recruitment by way of PCS Combined Examination 2015 which remained unfilled was required to be carried forward for the present recruitment i.e. PCS Combined Examination 2018 in view of provisions of proviso to sub-rule (2) of Rule 3 of Punjab Recruitment of Sportsmen Rules, 1988.

2. Since one of the posts i.e. of District Jail Superintendent was reserved for the category of SC (R&O) Sportsmen in the advertisement dated 22.03.2018 (P-2) for 2018 exam, the petitioner applied in his category and was permitted to take the preliminary written test held on 22.7.2018. Petitioner has fallen within the shortlisted candidates for the advertised post of District Jail Superintendent in his category, however, is asserting his

claim for the post of DSP, which should be also earmarked for his category.

3. On 31.10.2018 the following orders were passed:-

“Grievance of the petitioner is that one post of DSP reserved for outstanding Sportsmen, which remained unfilled in the previous PCS Recruitment 2015 was required to be carried forward and reserved for Sportsmen Category pursuant to the advertisement (P-2) for recruitment to PCS and Allied Examination 2018, in view of proviso to Sub Rule 2 of Rule 3 of Punjab Recruitment of Sportsmen Rules 1988. For ready reference the Sub Rule 2 and the proviso is reproduced hereunder:-

“ (2) Where a reserved vacancy remains unfilled for non-availability of sportsman eligible for recruitment under these rules, such vacancy may be filled in temporarily from any other sources in accordance with the rules regulating the recruitment, and the conditions of service of persons appointed to such posts as if the vacancy was not reserved;

Provided that the reserved vacancy so filled in shall be carried forward for the subsequent occasions arising during atleast two years in each of which such occasion arises for recruitment, whereafter the vacancy in question shall be treated as unreserved. ”

Upon notice a short reply has been filed by way of affidavit of Mr. Harmohan Singh, Assistant Inspector General of Police, Personnel-3, Punjab Chandigarh on behalf of respondent nos.1 & 2. The relevant para nos.4 & 5 of the reply reads as under:-

“ That in the selection of Deputy Superintendent of Police held in the year 2015 one post meant for SC (Sportsperson) was filled up from SC category (General) candidate because no eligible candidate from SC (Sportsperson) category was available, so reserve point of SC (Sportsperson) Category accrued in the year 2015 was consumed. So post of SC (Sportsperson) Category was not to be carried forward in the direct recruitment of DSPs in the year 2018.

That even as per proviso, the reserve vacancy, so filed

in shall be carried forward for the subsequent occasions arising during at least two years and Petitioner competed but could not clear Mains 2015 and now the Advertisement 2018 is after two years and as such is not to be carried forward.”

From the reading of the Rule reproduced herein above, it is apparent that the unfilled vacancy of a Sportsman could be temporarily filled up from other sources, however, the said reserved vacancy was required to be carried forward at least for next two recruitment years i.e. years in which the recruitment is actually made and not for two financial years (2016-2017) as assumed by the Department. The action of the respondents in not reserving one post of DSP for the sports category is thus illegal and arbitrary.

The aforesaid position had been explained to the State on the previous dates and an opportunity extended for the officers concerned to take remedial measures. However, none from the Department of Social Welfare as well as Department of Home is present.

At this stage, Mrs. Anu Chatrath Kapoor, Additional Advocate General, Punjab seeks a days accommodation.

*List on **02.11.2018**.*

Let Secretaries of both the aforesaid departments be present in Court to resolve the issue lest the entire schedule of main examination gets derailed.

To be shown in urgent.

Copy of this order be given to the learned State Counsel under the signatures of Bench Secretary. “

4. Thereafter on 2.11.2018 the following orders were passed:-

“In compliance of the directions contained in the order dated 31.10.2018, Home Secretary and Joint Secretary, Social Justice, Empowerment and Minorities, Punjab are present in Court. The officers present state that upon a careful examination the contention of the petitioner has been found to be correct and the Department is in the process of earmarking the post to be carried forward as belonging to SC (Sportsmen category). It is further stated that the needful shall be done within one week.

Adjourned to 12.11.2018.
To be shown in the urgent list.
Till further orders personal appearance of
Secretaries concerned is exempted.”

5. At the time of hearing today,learned State counsel on instructions from Secretary, PPSC states that revised requisition from the Department of Home has been received and PPSC is about to divert one post of DSP advertised for the category of SC (R&O) to SC (R&O) Sportsmen category. However, the position with regard to already short listed candidates in the base category of SC (R&O) would require to be protected while adding shortlisted candidates based on their secured marks in the preliminary/written test for the diverted post in the SC (R&O) Sportsmen category.

In response counsel for the petitioner states that in view of respondents themselves having undertaken the remedial measures no further adjudication would be required.

In view of the above circumstances, present writ petition is disposed of as infructuous.

The respondents/PPSC shall be bound by their aforesaid stand. It is further directed that the already shortlisted candidates in the SC (R&O) Category will not be disturbed while framing list of fresh shortlisted candidates based on their secured merit for consideration against the diverted post of DSP to the SC (R&O) Sportsmen category.

Disposed of accordingly.

12.11.2018
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No