

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

(1) CWP No. 25708 of 2014 (O&M)
Date of Decision: 19.11.2018.

Rajveer Kour ... Petitioner
Versus

State of Punjab and others
... Respondents

(2) CWP No. 18092 of 2015 (O&M)

Rajwinder Kaur ... Petitioner
Versus

State of Punjab and others
... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present: Mr. Vakeel Khosa, Advocate,
for the petitioner in CWP-25708-2014.

Mr. B.D. Sharma, Advocate,
for the petitioner in CWP-18092-2015.

Ms. Bhawna Gupta, DAG Punjab.

JITENDRA CHAUHAN.J.

This judgment shall dispose of aforementioned two civil writ petitions as common questions of facts and law are involved therein.

The facts are being taken from C.W.P. No. 25708 of 2014. Through the instant civil writ petition, the petitioner seeks quashing of merit list (Annexure P-2) vide which the claim of the petitioner for appointment as Sub-Inspector has been declined.

The Punjab Police department had issued a

notification/advertisement in the year 2013 for filling up posts of female Sub-Inspectors in Punjab Police. The petitioner had applied for the same. She had qualified the examination. In the final selection list, the name of the petitioner figured at serial No.2 in the waiting list of general candidates. There were 68 posts for general category out of which, 8 were reserved for ex-servicemen category. It is contended that four posts in the ex-servicemen category are lying vacant and the petitioner being at serial No.2 in the waiting list in the general category deserved to be offered appointment against unfilled ex-servicemen posts. Reliance is placed on rule 4 of the Punjab Recruitment of Ex-serviceman Rules, 1982 to contend that where a reserved vacancy remains unfilled for non availability of a person, such vacancy may be filled in, temporarily from any other source 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.

On the other hand, it is contended that 60 posts of general category have been filled in. The petitioner stands at serial No.2 in the waiting list. The claim of the petitioners cannot be accepted as the petitioner seeks appointment in the general category by consuming the post of ex-servicemen.

Heard.

It is to be noticed that the petitioners are in the waiting list. They intend to consume the vacancy of ex-servicemen general category on the ground that the suitable candidates from the ex-

serviceman category are not available. The number of advertised posts stand filled in. The course suggested by the petitioner cannot be adopted as Rule 4 does not make it mandatory to convert the post. The department may in its wisdom do so.

In *State of Punjab and others Vs. G.S. Gill and another (1997) 6 SCC 129*, it was held by Hon'ble the Supreme Court as under:-

“Whether or not reserved vacancies should be de-reserved is a matter falling primarily within the administrative discretion of the Government. There is no right in general candidates to seek filling up of the vacancies belonging to the reserved category and to insist on dereservation of reserved vacancies so long as it is possible in law to fill the reserved vacancies. In other words, carried forward (unfilled) vacancies reserved for Dalits and Tribes should be filled up only by the reserved candidates and general candidates have no right to seek direction for dereservation thereof for filling up of the same by general candidates. It would thus be clear that carry-forward rule is a permissible constitutional rule. Carry forward would be done for three years. In this case, the Government issued orders to carry forward for "two years". Therefore, the direction or mandamus to de-reserve the solitary post was clearly unconstitutional. Because no mandamus could be issued to dis-obey the law or prohibit the authorities from discharging the functions, it would be, therefore, manifestly illegal to seek a mandamus or directions; nor would the Court be justified to issue such mandamus or direction to the appropriate Government to de-reserve vacancy.”

In the instant case, the Court feels that no case for offering the vacancy of ex-serviceman to any other category is made

out.

Consequently, both the petitions are dismissed.

A photocopy of this order be placed in the file of
other connected case(s).

19.11.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No