

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

- (1)

CWP No. 312 of 2017 (O&M)
Date of decision: 23.05.2018
- Malkeet Singh and others

...Petitioner(s)
- Versus
- State of Punjab and others

...Respondent(s)
- (2)

CWP-4718 of 2017 (O&M)
Date of decision: 23.05.2018
- Harpreet Singh

...Petitioner(s)
- Versus
- Baba Farid University, Faridkot and another

...Respondent(s)
- (3)

CWP-7879 of 2017 (O&M)
Date of decision: 23.05.2018
- Gurvinder Singh

...Petitioner(s)
- Versus
- State of Punjab and others

...Respondent(s)
- (4)

CWP-2571 of 2017 (O&M)
Date of decision: 23.05.2018
- Sukhwinder Singh and others

...Petitioner(s)
- Versus
- State of Punjab and others

...Respondent(s)
- (5)

CWP-3965 of 2017 (O&M)
Date of decision: 23.05.2018
- Sukhanpal Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

(6)

CWP-3978 of 2017 (O&M)
Date of decision: 23.05.2018

Naib Singh and others

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

(7)

CWP-7407 of 2017 (O&M)
Date of decision: 23.05.2018

Ranjit Singh and others

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

(8)

CWP-9728 of 2017 (O&M)
Date of decision: 23.05.2018

Rajbhinder Singh and others

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

(9)

CWP-10317 of 2017 (O&M)
Date of decision: 23.05.2018

Gurjit Singh and others

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

- (10)

CWP-8834 of 2017 (O&M)
Date of decision: 23.05.2018
- Jhanda Singh and others

...Petitioner(s)
- Versus
- State of Punjab and others

...Respondent(s)
- (11)

CWP-8915 of 2017 (O&M)
Date of decision: 23.05.2018
- Deepak Sharma

...Petitioner(s)
- Versus
- State of Punjab and others

...Respondent(s)
- (12)

CWP-4286 of 2017 (O&M)
Date of decision: 23.05.2018
- Pardeep Singh and others

...Petitioner(s)
- Versus
- State of Punjab and others

...Respondent(s)
- (13)

CWP-11087 of 2017 (O&M)
Date of decision: 23.05.2018
- Rajnish Kumar Gupta

...Petitioner(s)
- Versus
- State of Punjab and others

...Respondent(s)
- (14)

CWP-11317 of 2017 (O&M)
Date of decision: 23.05.2018
- Manpreet Singh and others

...Petitioner(s)
- Versus
- State of Punjab and others

(15) CWP-6681 of 2017 (O&M)
Date of decision: 23.05.2018

Amit Kumar and others
Versus
...Respondent(s)
...Petitioner(s)

State of Punjab and others
...Respondent(s)

(16) CWP-8724 of 2017 (O&M)
Date of decision: 23.05.2018

Sukhwinder Singh and others
Versus
...Petitioner(s)

State of Punjab and others
...Respondent(s)

(17) CWP-11140 of 2017 (O&M)
Date of decision: 23.05.2018

Ravi Kumar and others
Versus
...Petitioner(s)

State of Punjab and others
...Respondent(s)

(18) CWP-11327 of 2017 (O&M)
Date of decision: 23.05.2018

Harjeet Singh and others
Versus
...Petitioner(s)

State of Punjab and others
...Respondent(s)

(19) CWP-12133 of 2017 (O&M)
Date of decision: 23.05.2018

Bachittar Singh
Versus
...Petitioner(s)

State of Punjab and others
...Respondent(s)

(20) CWP-16076 of 2017 (O&M)
Date of decision: 23.05.2018

Harpreet Singh
...Petitioner(s)
Versus

Baba Farid University, Faridkot and another
...Respondent(s)

(21) CWP-14204 of 2017 (O&M)
Date of decision: 23.05.2018

Ajit Singh
...Petitioner(s)
Versus

State of Punjab and others
...Respondent(s)

(22) CWP-14349 of 2017 (O&M)
Date of decision: 23.05.2018

Nirmal Singh
...Petitioner(s)
Versus

State of Punjab and others
...Respondent(s)

(23) CWP-11083 of 2017 (O&M)
Date of decision: 23.05.2018

Akwinder Kaur
...Petitioner(s)
Versus

State of Punjab and others
...Respondent(s)

(24) CWP-20492 of 2017 (O&M)
Date of decision: 23.05.2018

Gajan Singh
...Petitioner(s)

Versus

Baba Farid University, Faridkot and another

...Respondent(s)

(25)

CWP-21198 of 2017 (O&M)
Date of decision: 23.05.2018

Harpreet Singh and another

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

(26)

CWP-12294 of 2017 (O&M)
Date of decision: 23.05.2018

Kulwinder Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

(27)

CWP-22748 of 2017 (O&M)
Date of decision: 23.05.2018

Nirbhai Singh and others

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

(28)

CWP-24973 of 2017 (O&M)
Date of decision: 23.05.2018

Satpal Singh and others

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

(29)

CWP-28471 of 2017 (O&M)
Date of decision: 23.05.2018

Chanchal Singh and another
...Petitioner(s)

Versus

State of Punjab and others
...Respondent(s)

(30) CWP-5333 of 2018 (O&M)
Date of decision: 23.05.2018

Jaswant Singh and others
...Petitioner(s)

Versus

State of Punjab and others
...Respondent(s)

(31) CWP-8217 of 2018 (O&M)
Date of decision: 23.05.2018

Harwant Singh and others
...Petitioner(s)

Versus

State of Punjab and others
...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. Veneet Sharma, Advocate for the petitioner(s),
in CWP No(s).312, 3965, 8724, 8834, 8915 of 2017.

Ms. Gurpreet Kaur, Advocate,
for Mr. Pardeep Bajaj, Advocate for the petitioner(s),
in CWP No(s).3978 of 2017.

Mr. Naresh Jain, Advocate for the petitioner(s),
in CWP No(s).11327, 22748 and 24973 of 2017.

Mr. R.S. Dhillon, Advocate for
Mr. AP Kaushal, Advocate for the petitioner(s)
in CWP No(s).11140-2017.

Mr. Rahul Popal, Advocate for
Mr. K.S. Dadwal, Advocate for the petitioner(s)
in CWP No(s).10317-2017.

Mr. Akhil Agnihotri, Advocate,
for Mr. Dheeraj Mahajan, Advocate for the petitioner(s),
in CWP No(s).7407 and 12133 of 2017; and 8217-2018.

Mr. Amit Arora, Advocate for the petitioner(s),
in CWP No(s).4286 of 2017.

Mr. Rajinder Sharma, Advocate for the petitioner(s),
in CWP No(s).4718, 16076, 11083 and 20492 of 2017.

Ms. Veena Kumari, Advocate for the petitioner(s),
in CWP No(s).9728 of 2017.

Mr. M.K. Dogra, Advocate for the petitioner(s),
in CWP No(s).2571 of 2017.

Mr. Gopal Singh Nahel, Advocate for the petitioner(s),
in CWP No(s).21198 of 2017.

Ms. Deepinder Kaur, Advocate
for Mr. C.K. Singla, Advocate for the petitioner(s),
in CWP No(s).11087 of 2017.

Mr. K. K. Thakur, Advocate for the petitioner(s)
in CWP No(s).14204 and 28471 of 2017.

Mr. S.S. Khaira, Advocate for the petitioner(s)
in CWP No(s).6681 of 2017.

Mr. Alekh Singh Mehta, Advocate,
for Mr. Tarun Vir Singh Lehal, Advocate
for the petitioner(s) in CWP No(s).14349 of 2017.

None for the petitioner(s) in CWP No(s).11317 of 2017.

Mr. Vivek Sharma, Advocate for the petitioner(s)
in CWP No(s).7879 of 2017.

Mr. R.K.S. Verka, Advocate for the petitioner(s)
in CWP No(s).12294 of 2017.

Mr. R.K. Arya, Advocate,
for the petitioner(s) in CWP No(s).5333 of 2018.

Ms. Sudeepti Sharma, Addl. A.G., Punjab

Mr. D.S. Patwalia, Sr. Advocate,
with Ms. Gurjot Grewal, Advocate,
for private respondents in CM-8250-CWP-2017 in
CWP-312-2017.

Mr. Kartikeya Swaroop Mehta, Advocate
for private respondents in CM-10936-CWP-2017 in
CWP-312-2017.

Mr. S.K. Virk, Advocate for the applicant(s)/private
respondents in CM-13435-36-CWP-2017 in CWP-312-2017.

Jitendra Chauhan, J. (Oral)

By way of this common order, a batch of 31 writ petitions mentioned above are being decided as issue involved in the petitions is common. However, the facts are being derived from CWP-312-2017 to avoid the repetition.

By way of instant writ petition(s), under Articles 226/227 of the Constitution of India, the petitioners seek issuance of a writ in the nature of certiorari for quashing the provisional result for the post of Multipurpose Health Worker (Male) (Annexure P-6) as the result of ineligible candidates including women has been declared without mentioning the separate categories and for quashing the impugned notice (Annexure P-7) vide which the reserved categories of handicapped persons have not been separately called for counselling.

Learned counsel for the petitioner(s) argued that in pursuance of letter dated 24.11.2016 (Annexure P-1) issued by respondent No.2, an advertisement was issued for recruitment of 1263 posts of Multipurpose Health Worker (Male), out of which 631 posts were meant for general category and the remaining 632 posts were for all the reserved categories. As per the advertisement, the candidate should have passed the senior secondary Part-II examination with science or its

equivalent from a recognized university or institute and should possess a diploma in Multipurpose Health Worker (Male) from a recognized university or institution. The candidate who fulfilled the aforesaid eligibility criteria would undergo a written test, however, no cut off of marks in the written test was fixed in the advertisement either in the general category or other categories. After declaration of result of written test, the counselling was scheduled but while scheduling the counselling for the first time, the concept of cut off marks in the written test came into picture by the respondents and candidates of general category having 50% marks and candidates of scheduled caste category having 40% marks were called for counselling. On the basis of the result, a combined merit list of all the candidates was prepared. Aggrieved against the action of respondents, the petitioners who belong to handicapped category and other reserved categories have filed the present writ petitions on the ground that since at the time of advertisement and even at the time of conducting written test, no criteria of cut off marks was prescribed and the cut off marks criteria was introduced during counselling. It is further submitted that the candidates of reserved category who were higher in merit than the general category candidates who fell within the zone of consideration should be considered in the general category and not against their own category as was being done by the respondents. The respondents cannot be allowed to introduce the cut off marks after the selection process had started. Learned counsel for the petitioner(s) referred to the information obtained under Right to Information Act,

2005, wherein the respondents have admitted that they have finalized the cut off marks after discussion on telephone with the competent authorities from Baba Farid University, Faridkot and not on the basis of written or speaking order, therefore, learned counsel state that action of the respondents is not justifiable in the eyes of law.

On the other hand, learned State counsel though has admitted that the cut off merit was decided on telephone with the competent authority of Baba Farid University, however, she states that the category wise merit list of each category was prepared separately. She further submitted that the representations/objections received for the change of category, however, after consideration the same were rejected by the Departmental Committee as the petitioners were not entitled for change their category. The recruitment test was conducted by respondent No.3 in fair and transparent manner and respondent No.2 in consultation with respondent No.3 fixed qualifying marks of 50% (general) and 40% (SC) to maintain the higher standard of education. She further states the candidates of SC category and BC category who fall in general category merit list have already been considered in general/open category merit as per instructions dated 11.09.2015 issued by the Government of Punjab, Department of Welfare (Reservation Cell).

I have heard learned counsel for the parties and perused the record with their able assistance.

The petitioner(s) are aggrieved against the action of the respondents whereby the respondents have introduced the cut off marks

criteria at the time of counselling and due representation has not been given to each category and the criteria mentioned in the advertisement has been changed at the time of preparation of the list. The process of recruitment of 1263 posts of Multipurpose Health Worker (Male) was initiated by respondent No.2 through respondent No.3. Respondent No.3 after conducting the written test on 27.12.2016 sent the category wise merit list. Admittedly, in the advertisement, there is no mention of cut off marks and the respondents have adopted the criteria of cut off marks while preparing the schedule of counselling whereby the candidates of general category having 50% marks (upto 400/800 marks) and candidates of scheduled caste category having 40% marks (upto 320/800 marks) in the written test were called for counselling. It has been pointed out that in certain categories marks of the candidates are more than the last selected candidate of the general category but their categories were not specified. The stand of the respondents that the candidates who belong to SC and BC categories who fall in general category merit list have already been considered in general/open category in view of the instructions dated 11.09.2015 and the candidates of handicapped category having higher merit were to be considered in the general category as per instructions dated 24.06.2015 issued by the competent authority and they were not considered as the cut off was also fixed as 50% due to oversight and further the candidates of ESM (SC) and ESM (BC) categories having higher merit could not be adjusted against general merit is not tenable and based on pick and choose method. It is an admitted fact that no

qualifying marks were prescribed for the recruitment and the cut off marks criteria came into picture subsequently which is based on a telephonic conversation having no credible sanctity.

From the above facts and circumstances of the case, this Court feels that the respondents have prepared the merit list in a hasty manner and the action of the respondents needs to be revoked. Accordingly, the present petition(s) are disposed of with a direction to the respondents to prepare the merit list and accommodate the candidates of all the reserved categories. The rider which is based on telephonic conversation of the University and the State is held to be bad in law. The selection will be made ignoring the telephonic conversation on the basis of which 50 % & 40% cut off marks have been prescribed. The State is directed to start the counselling and finalize the result in the manner as indicated above.

A photocopy of this judgment be placed on the connected files.

23.05.2018

sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No