

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-3487-2019 (O&M)
Date of decision: 08.02.2019

Chandigarh Administration through its Home Secretary and others

.....Petitioners

versus

Central Administrative Tribunal and others

.....Respondents

**CORAM: Hon'ble Mr.Justice Rajiv Sharma
Hon'ble Mr.Justice Kuldeep Singh**

Present: Mr.Rakesh Sobti, Advocate for the petitioners

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J.

Petitioners have challenged the order dated 04.07.2018 (Annexure P1) passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh, vide which, Original Application filed by respondent no.2, namely, Jaskirandeep Kaur has been allowed. The impugned order, rejecting the representation of the applicant (respondent no.2 herein) for appointment and the impugned order of appointment of respondent no.6 (respondent no.4 herein) were quashed and respondents were directed to consider claim of the applicant (respondent no.2 herein) for appointment forthwith.

Heard.

The short controversy is that on 18.02.2007, Chandigarh

Administration invited applications for 20 temporary posts of ASI in

Chandigarh police. The break up of the vacancies was as under:-

	<i>General</i>	<i>OBC</i>	<i>SC</i>	<i>Ex-servicemen</i>	<i>Total</i>
<i>Male</i>	8	4	2	2	16
<i>Female</i>	2	1	1	--	4
<i>Total</i>	10	5	3	2	20

The selection was to be made in accordance with the Standing Order No.33/2007 dated 31.01.2007. The physical measurement and efficiency test for the male and female was different. After so many hurdles and litigation, ultimately, the written test was conducted on 05.06.2011, followed by interview on 16.06.2011. Final list of 20 candidates was displayed, in which name of applicant (respondent no.2 herein) was at serial no.16 having secured 59 marks. Most of the candidates were issued appointment letters on 25.09.2012. Vide order dated 31.05.2012, candidature of 10 candidates i.e. 7 in the main select list and 3 in the waiting list was cancelled on the basis of recommendations made by CBI dated 26.03.2012.

Original Application No.745/PB/2012 titled as Paramjit Singh vs. Union of India and others, challenging the said order was disposed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh on 19.10.2012, directing the respondents to re-visit the entire matter and afford an opportunity of hearing to the applicants. Subsequently, Senior Superintendent of Police, vide order dated 24.05.2013 again affirmed the cancellation of candidature of 8 candidates out of 10 candidates. Another Original Application No.993/HR/2013 titled as Suresh Pal vs. Chandigarh Administration and others, challenging cancellation of candidature on the basis of report of CBI, was dismissed on 30.09.2014.

Applicant (respondent no.2 herein) submitted representation on

14.09.2016 stating that she was placed at serial no.16 with 59 marks, whereas Suresh Kumar, who was placed at serial no.18 was with 58 marks. Said Suresh Kumar has been appointed. Therefore, she prayed for appointment on the basis of her merit having secured more marks than Suresh Kumar -respondent no.4. However, the said representation was rejected on the ground that her claim was to be considered against 2 general posts of female category.

Perusal of the judgment of the Central Administrative Tribunal, Chandigarh Bench, Chandigarh shows that the applicant (respondent no.2 Jaskirandeep Kaur) secured more marks than Suresh Kumar -respondent no.4. Therefore, she claimed appointment against 8th vacancy meant for general male category. Central Administrative Tribunal, Chandigarh Bench, Chandigarh rejected the contention of the present petitioners that the claim of respondent no.2 is to be considered only against general female and cannot be considered against general male. The Tribunal noticed that fixing the post for the women per se cannot be said to be violative of either Article 15 or 16 of the Constitution of India. Such reservation is a horizontal reservation and not vertical reservation as in the Rules. Horizontal reservation for women is in tune with the constitutional mandate and not the vertical reservation. Therefore, the creation of vertical reservation for the men is not sustainable in the eyes of law.

In this case, there cannot be any reservation for the male candidates. Therefore, if respondent No.2 had secured more marks than the last male candidate, her claim was to be considered on the basis of such merit. The Tribunal has held that the department cannot be allowed to reserve vacancies for male candidates.

We find that there is no illegality or infirmity in the order dated 04.07.2018 (Annexure P1) passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh. Admittedly, the applicant applied against the posts of general female. However, she secured more marks than one of the selected candidates, namely, Suresh Kumar – respondent no.4. As there can be no reservation for male candidates, therefore, her claim was to be considered against the post meant for male. There are no merits in the present petition.

Resultantly, the present writ petition is dismissed.

(Rajiv Sharma)
Judge

(Kuldip Singh)
Judge

08.02.2019

gk

Whether speaking/ reasoned:	Yes
Whether Reportable:	No