

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

**(1) CWP No. 20012 of 2012 (O&M).**

Date of Decision: 09.05.2019.

Ravinder Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

**(2) CWP No. 17602 of 2013 (O&M).**

Suresh Kumar and others

... Petitioners

Versus

State of Punjab and another

... Respondents

**(3) CWP No. 7478 of 2016 (O&M).**

Chitsimran Kaur

... Petitioner

Versus

State of Punjab and another

... Respondents

**CORAM : Hon'ble Mr. Justice Jitendra Chauhan**

Present : Mr. B.S. Bajwa, Advocate,  
for the petitioner(s) in CWP-20012-2012.

Mr. Kapil Kakkar, Advocate,  
for the petitioner(s) in CWP-17602-2013 and 7478-  
2016.

Mr. Vikas Mohan Gupta, Addl. AG Punjab.

**JITENDRA CHAUHAN.J.**

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

The facts are being taken from C.W.P. No. 20012 of 2012.

By way of instant writ petition, the petitioners seek directions to the respondents to consider them for the post of Master Punjabi/Hindi as advertised vide advertisement dated 23.09.2009 (Annexure P-1). The

petitioners further seek directions to the respondents to complete the selection process for the the posts in question.

An advertisement dated 23.09.2009 (Annexure P-1) was issued by the Department of Education, State of Punjab inviting applications for 3638 posts of Lecturer, Master, Mistress in various subjects. The petitioners are members of Scheduled Caste and they applied for the posts of Master in Punjabi/Hindi. They were called for counselling vide public notice dated 13.12.2009 (Annexure P-2).

It is contended that out of 150 posts of Punjabi Masters reserved for SC (M&B), only 35 posts have been filled up whereas, out of 89 posts of Hindi Master for SC (M&B), only 75 posts have been filled up. It is further contended that petitioner No.1 has secured 54.8% marks, petitioner No.2 has secured 54.13% marks, petitioner No.3 has secured 54.33%, petitioner No.4 has secured 50.80% marks and petitioner No.5 has secured 50.80% marks but despite that they were not selected.

On the other hand, on behalf of the respondents, it is contended that petitioner No.4 is not an applicant either for the post of Punjabi Master or Hindi Master. The selection process was completed in two phases. 43 posts under the SC (M&B) category were filled during the first phase of scrutiny. The merit of last selected candidate after the first phase of scrutiny was 56.713. Further, 35 posts were filled up during the second phase of scrutiny amongst the candidates who belong to SC (MB) category. The merit of last appointed

candidate after the second phase of scrutiny was 55.2667 and as such total 78 posts were filled up and 42 posts of SC (M&B) remained unfilled on account of non-availability of eligible candidates upto cut off merit 55.2667 which was fixed by the department during the second phase of scrutiny. The merit of the petitioners is less than 55.2667, therefore, their names did not figure in the zone of selection.

Heard.

On 06.03.2018, the following order was passed by this Court:-

*“From the orders dated 24.02.2016 and 24.05.2017, it is apparent that the respondents are without application of mind contesting the issue involved in the present cases.*

*The petitioners based on their determined merit fell within the zone of appointment against the advertised vacancies in their reserved category. However, they have been denied appointment merely on the ground that a cut off merit percentage was fixed for calling the selected candidates for scrutiny of documents. The assumed cut off percentage does not have any basis or backing of any statutory provision, which has resulted into limiting the appointment of the selected candidates falling within the zone of appointment, thereby violating their legitimate expectation.*

*Learned counsel for the petitioners are willing to accept fresh orders of appointment, although they had approached this Court within time.*

*Faced with the situation, the Court is constrained to*

*summon the Secretary, Education Department, Punjab.”*

Thereafter, another affidavit dated 14.05.2018 was filed by Secretary to Government of Punjab, Department of School Education, wherein it was admitted that the respondents department at no stage had fixed any cut off merit and actually it is the merit of the last selected candidate in different subjects and categories as a result of second phase of counselling. The factum of not filling up 42 posts in the subject of Punjab and 37 posts in the subject of Hindi in SC (M&R) category was also admitted but still the respondents tried to justify the action that the merit of the petitioners was lower. It is to be noticed that if all the 42 vacant posts belonging to SC (M&R) category in the subject of Punjabi are filled up, then the petitioners will fall in the zone of consideration. This Court is of the opinion that where the Government is dealing with the public, whether by way of giving jobs or entering into contracts or issuing quotas or licences, the Government cannot act arbitrarily at its sweet will and like a private individual deal with any person in any manner it pleases, but its action must be in conformity with standard of norms which are not arbitrary, irrational or irrelevant. There was no basis to fix cut off, therefore, such a cut off is inconsequential. The petitioners and other candidates who are in the zone of consideration need to be appointed on the vacant unfilled posts.

In view of above, the present civil writ petitions are allowed. The respondents are directed to fill up all the remaining posts

in all the categories and issue appointment letters as per the merit list of the respective categories. The necessary exercise be done within a period of two months from the date of receipt of certified copy of the judgment.

A photocopy of this order be placed on the files of other connected case(s).

09.05.2019.  
SN

**(JITENDRA CHAUHAN)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No