

CWP No.20409 of 2015 & other connected cases

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 3rd February, 2020

CWP No.20409 of 2015 (O&M)

Satnam Singh & others

...Petitioners

Versus

State of Punjab & others

...Respondents

(2)

CWP No.20964 of 2015 (O&M)

Simarjit Singh & others

...Petitioners

Versus

State of Punjab & others

...Respondents

(3)

CWP No.20989 of 2015

Sukhdev Singh & others

...Petitioners

Versus

State of Punjab & others

...Respondents

(4)

CWP No.21745 of 2015

Darpan Kumar & others

...Petitioners

Versus

State of Punjab & others

...Respondents

(5)

CWP No.22721 of 2015

Gurjeet Singh & others

...Petitioners

Versus

State of Punjab & others

...Respondents

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(6)

CWP No.22927 of 2015

Baljinder Singh & others ...Petitioners

Versus

State of Punjab & others ...Respondents

(7)

CWP No.24008 of 2015

Sukhpreet Singh & others ...Petitioners

Versus

State of Punjab & others ...Respondents

(8)

CWP No.23757 of 2015

Rajinder Singh & others ...Petitioners

Versus

State of Punjab & others ...Respondents

(9)

CWP No.24184 of 2015

Nirbhai Singh & others ...Petitioners

Versus

State of Punjab & others ...Respondents

(10)

CWP No.16785 of 2015

Mangaljeet Singh & others ...Petitioners

Versus

State of Punjab & others ...Respondents

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(11)

CWP No.19890 of 2015

Mangal Singh & others ...Petitioners

Versus

State of Punjab & others ...Respondents

(12)

CWP No.23484 of 2015

Dilawer Singh & others ...Petitioners

Versus

State of Punjab & others ...Respondents

(13)

CWP No.21209 of 2015

Ram Singh & others ...Petitioners

Versus

State of Punjab & others ...Respondents

(14)

CWP No.20657 of 2015

Angrej Singh & others ...Petitioners

Versus

State of Punjab & others ...Respondents

(15)

CWP No.26072 of 2015

Jagjit Singh & others ...Petitioners

Versus

State of Punjab & others ...Respondents

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CWP No.22065 of 2015

Ashok Kumar & others ...Petitioners

Versus

State of Punjab & others ...Respondents

(17)

CWP No.17761 of 2015 (O&M)

Balwinder Singh & others ...Petitioners

Versus

State of Punjab & others ...Respondents

(18)

CWP No.25078 of 2015

Sarvan Singh & others ...Petitioners

Versus

State of Punjab & others ...Respondents

(19)

CWP No.27396 of 2015

Harminster Singh ...Petitioner

Versus

State of Punjab & others ...Respondents

(20)

CWP No.17916 of 2016

Purshotam Kumar & others ...Petitioners

Versus

State of Punjab & others ...Respondents

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(21)

CWP No.25407 of 2016

Ravinder Singh ...Petitioner

Versus

State of Punjab & others ...Respondents

(22)

CWP No.20770 of 2016

Baljeet Singh ...Petitioner

Versus

State of Punjab & others ...Respondents

(23)

CWP No.612 of 2016

Karampal Singh & others ...Petitioners

Versus

State of Punjab & others ...Respondents

(24)

CWP No.6331 of 2017

Dalbir Singh ...Petitioner

Versus

State of Punjab & others ...Respondents

(25)

CWP No.571 of 2017

Palwinder Singh & others ...Petitioners

Versus

State of Punjab & others ...Respondents

(26)

CWP No.913 of 2019

Jasbir Singh & others ...Petitioners

Versus

State of Punjab & others ...Respondents

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(27)

CRM-M No.1789 of 2017

Ravinder Singh

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Mansur Ali and Mr. H.S. Deol, Advocates for the petitioners in CWP No.20409, 20989, 22721, 24008 of 2015, CWP-25407-2016, CWP-571-2017 & CRM-M-1789-2017.

Mr. Bhishm Singh, Advocate for
Mr. Brijender Kaushik, Advocate
for the petitioner(s) in CWP No.21745 of 2015.

Mr. Ritesh Kumar Sharma, Advocate for
Mr. B.S.Baath, Advocate for the petitioner(s)
in CWP No.20964, 22927 & 26072 of 2015.

Mr. Sanjay Sharma, Advocate for
Mr. Harjit Singh Minhas, Advocate
for the petitioner(s) in CWP-913-2019.

Mr. Anuj Thakur, Advocate for Mr. Aalok Jagga, Advocate
for the petitioner(s) in CWP-23757-2015.

Mr. R.S. Sekhon, Advocate for the petitioner(s)
in CWP No.27396, 20657, 22065 of 2015, 17916 of 2016.

Mr. Vikas Singh, Advocate &
Mr. Kuldeep Singh Saini, Advocate
for respondent Nos.184, 199, 221,
274, 317, 420, 522, 525, 630, 641, 648, 681, 711, 787, 1027,
1036 and 1057 (in CWP-23757-2015).

Mr. Chander Kant Thakur, Advocate for respondents No.77,
168, 196, 201, 417, 462, 476, 525, 526, 626, 630, 649, 833, 962
and 1017 (in CWP No.20409 of 2015).

Mr. Deepak Grover, Advocate for
Mr. Inderjit Sharma, Advocate for the petitioners
in CWP No.21209 of 2015 & CWP-6331-2017.

Ms. Anu Pal, DAG, Punjab.

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Mr. Anupam Singla, Advocate
for respondent-PUNBUS in all the cases.

Mr. Amit Arora, Advocate for the respondent-Outsourcing
Company (in CWP Nos.16785, 20409, 24184, 19890,
23484, 21209, 20657, 17916, 17761, 22065, & 19318 of 2015).

Mr. Vipin Mahajan, Advocate, for respondent Nos.306, 464,
481, 514, 672, 757, 774, 775, 1065 and 1066
(in CWP No.20409 of 2015).

AUGUSTINE GEORGE MASI, J. (ORAL)

By this order, I propose to dispose of twenty six Civil Writ
Petitions i.e. CWP Nos.20409, 20964, 20989, 21745, 22721, 22927,
24008, 23757, 24184, 16785, 19890, 23484, 21209, 20657, 26072,
22065, 17761, 25078, 27396 of 2015; CWP Nos.17916, 25407, 20770,
612 of 2016; CWP Nos.6331 & 571 of 2017 and CWP No.913 of 2019
and one Criminal Misc. Petition i.e. CRM-M No.1789 of 2017. The order
is primarily being passed in the light of facts and orders as passed in
CWP No.20409 of 2015.

2. These petitions have been filed by the petitioners, who are
working through outsourcing agency on the post of Conductors and had
applied in pursuance to an advertisement issued by respondents No.3 and
4 for appointment as Conductors on contract basis directly. The selection
process was gone through and the petitioners, who had earlier been
working through outsourcing agency were not selected resulting in they
approaching this Court with a grievance primarily that the petitioners,
who are contract employees cannot be replaced by another set of contract

employees. Apart from this, petitioners have also approached this Court taking a plea that the selection process itself was bad in law and unsustainable on various grounds which were taken in the writ petition including the aspect that the select list had to be prepared on the basis of law as laid down by the Hon'ble Supreme Court specially where the reserved category candidates, who have higher marks than the last selected candidate in the general category had to be considered in the general category and for granting the benefit of reservation to the next in merit in that particular reserved category.

3. Upon notice having been issued, various orders have been passed by this Court from time to time including *status quo* to be maintained qua the services of the petitioners and it is, in this context, the petitioners are still continuing in service.

4. During the pendency of the writ petition(s), an order dated 16.11.2016 was passed by this Court, whereby a committee was to be constituted to consider the grievance of the petitioners regarding their entitlement for award of marks upon verifying their documents by taking the assistance of the petitioners, if required. Reconsideration of the final merit list which was prepared and recasting thereof in view of the reservation policy and to grant appointment letters in case the petitioners are found to be so entitled. It is, in pursuance thereto, an additional affidavit dated 25.07.2017 has been filed. Along with the said affidavit, is appended the list of the petitioners and other applicants, who have been

found to be either selected or reasons assigned for non-selection of such candidates. This finds mention in Annexure R-3 (colly) appended along with the said affidavit. Thereafter, another order dated 12.02.2018 was passed to inform the Court as to whether the recruitment is perennial in nature and the reason and logic for appointment on contractual basis.

5. This Court has considered the matter today and is of the considered view that the petitioners be given an opportunity to explain with regard to the objections which have been raised by the respondents with regard to their ineligibility/non-grant of marks etc. and as to why they have not been appointed/selected.

6. Let the petitioners file detailed representation with reference to the reasons/objections as raised by the respondents for non-selection/non-consideration of their candidature as found in Annexure R-3 (colly). The said representation alongwith documents supporting their claim should be filed within a period of three weeks from today. On submission of the said representation along with documents, respondents shall consider the same and on reconsideration, pass a speaking order within a period of eight weeks from the date of submission of such representation.

7. This exercise obviously has to be carried out simultaneously along with the recasting of the merit list keeping in view the order which has earlier been passed by this Court on 16.11.2016. The recast merit list shall be given effect to on that basis. In case the petitioners are found to

be making the merit, they be issued appointment letters accordingly. After the passing of the order with regard to the petitioners, the same be conveyed to them. As is apparent this exercise need to be done and given effect to as per the order dated 16.11.2016 as referred to above in true spirit by the Highest Authority and therefore, direction is issued to the Managing Director of PUNBUS to personally monitor the whole process and take further steps in accordance with law.

8. In the light of the interim order passed by this Court, whereby *status quo* with regard to the services of the petitioners had been ordered to be maintained shall continue qua the petitioners, who are not selected/appointed for a period of three weeks thereafter before actually dispensing with the services of the petitioners. In case the Competent Authority is satisfied with the work and conduct of these non-selected eligible petitioners, the possibility and feasibility of continuing with them be considered, if not on direct contract basis, then through outsourcing.

9. It is clarified here that this order has been passed keeping in view the report, which is stated to have been prepared by the respondents in pursuance to the directions issued by this Court to which certain reservations/objection have been raised by the counsel for the petitioners. Nothing has been considered on merits with regard to the rights of the petitioners as has been projected by them in these writ petitions. This exercise is being carried out so that the correct factual position comes out and the Court is in a position to take a final decision in case some

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aggrieved person(s) approach this Court.

10 These writ petitions are disposed of accordingly.

CRM-M No.1789 of 2017

In the light of the disposal of connected civil writ petitions,
no further orders are required to be passed in this petition.

Disposed of as such.

3rd February, 2020
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

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