

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

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LPA No. 26 of 2021 (O&M)

State of Haryana and others

... Appellants

Versus

Anju Bala

... Respondent

(2)

LPA No. 275 of 2021 (O&M)

State of Haryana and others

... Appellants

Versus

Manju

... Respondent

(3)

LPA No. 32 of 2021 (O&M)

State of Haryana and others

... Appellants

Versus

Sarla Devi and others

... Respondents

(4)

LPA No. 37 of 2021 (O&M)

State of Haryana and others

... Appellants

Versus

Neelam

... Respondent

Decided on : 15.11.2021

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present: Ms. Shruti Jain Goyal, DAG, Haryana
for the appellants.

Mr. Aditya Yadav, Advocate for the respondent
in LPA No.26 of 2021.

Mr. Sahil Gupta, Advocate for the respondents
in LPA No.32 of 2021.

Mr. G.S. Gopera, Advocate for the respondent
in LPA No.37 of 2021.

(The proceedings have been conducted through video
conferencing, as per instructions.)

G.S. Sandhwalia, J. (Oral)

The present order shall dispose of 4 appeals i.e. LPA Nos.26, 32, 37 and 275 of 2021. The facts are being taken from **LPA No.26 of 2021 'State of Haryana and others Vs. Anju Bala'**.

2. The challenge by the State in the present bunch of cases is to the decision of learned Single Judge dated 29.10.2020 passed in **CWP No.6708 of 2020 'Anju Bala Vs. State of Haryana and others'** whereby three petitions were disposed of by a common order. It was held that the authorities were to include the admissible additional marks for the writ petitioners for the relevant Computer/Training Courses, as per the terms of Rule 13.7 (4) (ii) (9) of the Punjab Police Rules, 1934. It was, accordingly, held that in case the writ petitioners cross the bench-mark of 108 marks, they will be deputed to join Lower School Course. In **LPA No.275 of 2021 'State of Haryana and others Vs. Manju'**, arising out of CWP No.698 of 2020 the said view was followed and the same was disposed of on 09.12.2020 in terms of the order passed in CWP No.6708 of 2020. Thus, the appeals are being taken up together.

3. In principle, the learned Single Judge has relied upon the un-amended rules (Annexure R-1) to hold that these additional marks had to be awarded to a candidate having undergone the mandatory computer course conducted by the approved authority of Haryana Government. The marks to be awarded for training courses had been increased from 6 to 10 following the amendment in 2017 for any computer course exceeding the duration of 20 weeks. Resultantly, it was held that these additional marks were not awarded to the writ petitioners on account of the WAN message dated 13.06.2019 (Annexure P-5), which was subject matter of challenge in the writ petition. It was, accordingly, held that the WAN message was contrary to the said rule and the clarification being highlighted was a disguised attempt to tinker with the statutory rules. Therefore, it could not override the requirement of awarding additional marks in terms of the unamended clause 9 of Rule 13.7 (4) (ii) of the Punjab Police Rules, 1934.

4. Counsel for the State has vehemently contended that vide notification dated 07.08.2017 (Annexure P-1) the Rules of 1934 pertaining to Rule 13.7 were amended and the procedure prescribed for maintaining List B-1 was to be done at the State Police Headquarters. This was in contrast to the earlier procedure prescribed, which was to be done by the Superintendent of Police (district wise). It was further submitted that reservation was also increased to 62% on the basis of merit from 55% provided earlier. It is further pointed out that as per Rule 13.7 (4) (b) (iii) (post amendment in 2017) the benefit of the training course

was not to exceed 30 marks. The same were divided between General (Duration) and Special (Duration) courses by specifying the number of marks awarded against each category. It is, thus, contended that the learned Single Judge has passed the directions on a wrong premise by referring to the un-amended rules.

5. It was argued that the clarification which was issued vide WAN message dated 13.06.2019 (Annexure P-5) was followed by WAN message dated 19.07.2019 (Annexure P-6) and 13.09.2019 (Annexure P-7) that the course as such should have been conducted by the officials with the approval of the Training Branch, Police Headquarters, Panchkula and was mandatory as such. Therefore, the benefit of the training undergone of computer courses without approval was not to be granted. Counsel for the State is thus well justified to submit that the learned Single Judge has noticed the fact that the amendment has taken place in the year 2017, but he has reproduced the unamended provision and relied upon the same and, accordingly, came to conclusion that there would be a tinkering of the rules. The selection process was initiated after the amendment in 2017 and, therefore, the unamended provisions have been wrongly referred to and the counsel for the State is well justified to argue so. However, for different reasons, deciphered below, we do not see to interfere with the order passed by the learned Single Judge granting the benefit.

6. A perusal of the record of the case would go on to show that apart from the argument which has been raised by the State Counsel and

which would come forth from the paper-book would be that the rules of the game have been changed, once the process had been initiated on 28.05.2018. Therefore, this Court is of the opinion that the instructions dated 13.06.2019, 19.06.2019 and 13.09.2019 would not be applicable to the writ petitioners, in view of the law laid down by the Apex Court in **'K. Manjusree Vs. State of A.P. and another' 2008 (2) SCT 6.**

7. It is not disputed that the writ petitioner had done her basic computer course at Police Lines, Ambala City in the year 2014 and the necessary certificate is also appended as Annexure P-4. The allocation of the seats for Lower School Course was done on 28.05.2018. On 17.03.2019 the Online B-1 Test for 62% seats on merit was held and the result was declared on the same day, in which she has secured 66 marks. She also participated in the Parade Test conducted on 18.03.2019. It was, thereafter, on 13.06.2019 (Annexure P-5) the WAN message as such was received in response to the clarifications sought that whether marks of computer course conducted under the HARTRON or Government Institutions are to be assigned for selection in List B-1 for Lower School Course or otherwise.

8. The response was that if a police personnel is deputed/selected for said training course by the Training Branch of Haryana Police Headquarters or Government of Haryana, the benefit was to be granted. The same was reiterated on 19.07.2019 (Annexure P-6) and it was rather ordered that the revised result of List B-1 for the year 2018 under the 62% category be sent. Thereafter, another communication dated

13.09.2019 (Annexure P-7) has further reiterated that a refresher course at district police lines without approval of Training Branch, Police Headquarters cannot be considered for allotting marks for both merit quota and the seniority-cum-fitness quota. Thus, it is apparent that the criteria was changed after the result had already been prepared and the cause of action arose when the result was prepared on 12.12.2019 (Annexure P-9) and the writ petitioners found that their names were not there. Thus, they had approached this Court.

9. Thus, from the above sequence of events it would be clear that the criteria as such for the additional marks which were to be given for the general test as per the amended rule and which can go up to 10 marks was denied to the dis-advantage of the petitioners. If this benefit was not to be granted, the criteria should have been fixed at the time when the process as such was initiated on 28.05.2018. Therefore, for the reasons above, this Court is of the opinion that the writ petitioners were justified for agitating their claim.

10. Counsel for the State has, however, contended that the said benefit as such be restricted only to the writ petitioners as it would open a Pandora's Box regarding similarly situated persons who had chosen not to approach this Court, though a period of 2 years has gone by.

11. Keeping in view the above, the present appeals are disposed of by holding that the benefit as such would apply to the writ petitioners only who were successful as such and had agitated for their claim at the initial point of time and had not been fence sitters as has been held in

'State of Uttar Pradesh & others Vs. Arvind Kumar Srivastava & others' 2015 (1) SCC 347. The instructions which were issued, however, cannot be faulted with since they are to fill in the gaps in the statutory rules. They only laid down as to which of the tests could be recognized for the purpose of granting benefits as per the statutory rules and the said instructions would thus only operate from the date they were issued.

12. Accordingly, the present appeals are partly allowed and the order of the learned Single Judge is modified to the above extent that the writ petitioners be given the benefit of the computer/training test.

13. It has been pointed out by the State counsel that Lower School Course for the year 2019 is to commence in December, 2021. Accordingly, the State shall permit the petitioners to join the said Course with the said batch. Needless to say that the seniority of the petitioners shall be considered as a part of the batch of 2018.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

November 15, 2021
Naveen

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No