

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

**(103+281)**

**CM-13809-CWP-2021 and  
CM-13818-CWP-2021 in/and  
CWP-16783-2020  
Date of Decision : September 28, 2022**

**Sandeep Singh**

**.. Petitioner**

**Versus**

**State of Haryana and others**

**.. Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Akash Lather, Advocate, for  
Mr. Vijay Pal, Advocate, for the petitioner.

Mr. R.S. Budhwar, Addl. Advocate General, Haryana.

Ms. Harpriya Khaneka, Advocate and  
Mr. Kanwal Goyal, Advocate, for respondent No.3.

**HARSIMRAN SINGH SETHI J. (ORAL)**

**CM-13818-CWP-2021**

As prayed for, the application is allowed.

**CWP-16783-2020**

In the present writ petition, the grievance of the petitioner is that without appreciating the controversy in the correct perspective, the petitioner has been thrown out of the select zone after the revised result of respondent No.4, who, in the revised result, secured more marks than the petitioner.

Learned counsel for the petitioner argues that there were 38 vacancies in the cadre of Assistant Professor (Geography) which were advertised in the category of scheduled caste and all the posts were not

filled up as the suitable candidates were not found. The petitioner was selected and consequently appointed as Assistant Professor (Geography). After the appointment of the petitioner, respondent No.4 raises a grievance qua the allotment of marks to him and upon revision of the merit of respondent No.4, he secured more marks than the petitioner and in order to accommodate respondent No.4, the petitioner was thrown out of the service.

The said action is under challenge in the present petition.

Learned counsel for the petitioner submits that all the 38 posts which were advertised in the scheduled caste category in the cadre of Assistant Professor (Geography), were not filled up, which is clear from the affidavit of the respondents wherein it has been conceded that even as of now, six posts remain vacant. Learned counsel for the petitioner further submits that once six posts out of 38 posts advertised in the cadre of scheduled casts still remain vacant, the petitioner cannot be thrown out of service merely on the ground that in the revised result, respondent No.4 has secured more marks than the petitioner. Learned counsel for the petitioner further submits that as the petitioner was protected, he continued to be in service and keeping in view the fact that there are six vacancies available in the category of scheduled caste out of the advertised posts, the petitioner should be allowed to continue in pursuance to his selection.

Learned counsel for the respondents does not dispute the fact that out of 38 posts advertised in pursuance to which the petitioner was selected, there are six posts which are lying vacant even as of now in the scheduled caste category in the cadre of Assistant Professor (Geography).

Keeping in view the above, the present writ petition is disposed

of with a direction to the respondents that the claim of the petitioner be considered for appointment against one of the six posts which are lying vacant out of the 38 vacancies, which were advertised by the respondents in the scheduled caste category in the cadre of Assistant Professor (Geography) keeping in view the merit secured by him in the competitive examination. In case, the petitioner is within the merit against the 38 posts to be filled up in the scheduled caste category and any such vacancy which was advertised is still lying vacant and there is no one, who is above the petitioner, who needs to be accommodated against the said vacant post, the claim of the petitioner for continuing in service be considered and appropriate order be passed within a period of two months of the receipt of copy of this order. In case, the claim of the petitioner is found to be genuine against the advertised posts, being meritorious, the petitioner be allowed to continue in service.

It is further made clear that till appropriate decision is taken by the respondents, interim order passed by this Court dated 12.10.2020 will continue to the effect that the petitioner will be allowed to continue in service.

As the main writ petition is disposed of, application i.e. CM-13809-CWP-2021 also stands disposed of.

**September 28, 2022**  
*harsha*

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

Whether speaking/reasoned : Yes  
Whether reportable : No