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

Date of decision: August 24, 2022

1. CWP-18290-2022 (O&M)

Vikas Jakhar

.....Petitioner

versus

State of Haryana and others

.....Respondents

2. CWP-2598-2018 (O&M)

Kanchan Lata

.....Petitioner

versus

State of Haryana and others

.....Respondents

3. CWP-8600-2018 (O&M)

Mamta

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ravinder Singh Dhull, Advocate,
Mr. Chandra Shekhar Singh, Advocate,
Mr. Shekhar Verma, Advocate for the petitioner(s).

Mr. Pankaj Middha, Additional AG, Haryana and
Mr. Saurabh Mohunta, DAG Haryana.

Ms. Harpriya Khaneka, Advocate
for respondent-HPSC in CWP-2598-2018.

Mr. Kanwal Goyal, Advocate,
Mr. Govind Tanwar, Advocate
for respondent-HPSC in CWP-8600-2018.

Mr. V.K. Jindal, Senior Advocate with
Ms. Anna Thakur, Advocate for respondent No.6
in CWP-2598-2018.

ARUN MONGA, J. (ORAL)

Vide this common order and judgment, bunch of above-mentioned
three writ petitions is being disposed of, since not only the facts are similar but

the law points and the issues raised therein are also common. For brevity, recitals are taken from CWP-18290-2022.

2. Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing the service allocation in the final result and select list dated 12.09.2016 (Annexure P-5) limited to the extent that respondents No.3 and 4 have illegally been allocated HCS (Executive) Service in the General Category despite the fact that they scored less marks in the preliminary examination than the last candidate in the General Category, and thus, are disentitled to be considered in General Category in view of Government instructions dated 25.06.1997 (Annexure P-14) and 03.12.2003 (Annexure P-15).

3. Facts are not in dispute. Succinctly short controversy herein is whether the petitioner, who belongs to General Category, can assail the selection of private-respondent(s) who originally had qualified for main written examination after seeking the benefit of reserved category in the preliminary round/ short-listing of candidates and having got more marks in the subsequent round of selection process than the last selected candidate in the General Category could have changed their category to the detriment of the petitioner. The question involved is already settled by two Division Benches judgments of this Court in **CWP-3144-2019** titled **Naveen Rao versus State of Haryana and others** and **CWP-3093-2022** titled **Ajit Singh versus State of Haryana and others** having been referred to and upon determination by the Full Bench wherein, it was held that preliminary examination round for the HCS examination is merely a short-listing process of the candidates who are held eligible to undertake the final round of written examination followed by written examination for the selection process, therefore, the same is not to be treated as

if there is any change of category. What is to be seen is the eligibility *sine qua non* for the same being qualifying in the preliminary round thereafter, the suitability based on the merit. Seen from that angle, preliminary examination is merely a sifting process wherein candidates across board participate to determine their eligibility for next round. In fact, in **Naveen Rao's case** *ibid*, the petitioner was exactly similarly situated as the petitioners herein and speaking for the Division Bench, Rakesh Kumar Jain, J. (as he then was in this Court) observed/ held as under:-

“xx xx xx.

It is an admitted fact that the petitioner had only qualified the preliminary examination which is a test meant for short-listing of the candidates to take the main written examination and the marks obtained in the Preliminary Examination are not to be counted towards the marks to be obtained in the Main Written Examination. It is only a process of short-listing of the candidates to be called upon for taking the main written examination. Thus, the judgements relied upon by the petitioner in the case of Bhupinder Kaur and others (Supra) and Rajneesh Kumar (Supra) are distinguishable because these judgements do not deal with the question involved in the present case rather the judgments relied upon by the respondents in the cases of Paramveer Singh and others (Supra) and Deepak Kumar (Supra) are squarely on the issue involved as in the case of Paramveer Singh and others (Supra) the question, posed hereinabove, has been answered in favour of the respondent against the petitioner holding that the principle that the reserved category candidates who secured higher merit in the process of selection for appointment are to be considered for appointment against the general category vacancies in spite of the fact that they have applied under the reserved categories and the slot vacated by them has to be given to the next candidate in the reserved category would apply at the time of making appointment on the completion of selection process and not at the stage of qualifying examination/short-listing/screening test. The said judgement i.e. Paramveer Singh and Others (Supra) has been followed in the case of Deepak Kumar (Supra). Therefore, we do not find any error on the part of the respondents in restricting the candidates in their own category though they have secured more marks than the general category candidates and were not shifted to the General category, making a slot for the reserved category candidates.

With these observations, we do not find any merit in the present petition and the same is hereby dismissed though without any order as to costs.”

4. In the light of aforesaid judgments, there is no scope for me to interfere in the selection already which has attained finality based on what has already been upheld by this Court in the judgments *ibid*.

5. In the parting, I may like to observe that learned counsel for the petitioner has placed reliance on letter dated 21.02.2019 (Annexure P-22) to stake claim on the post in question on the ground that another candidate i.e., namely Shri Abhimanyu Goyat, who had given representation to the Chief Secretary which led to the Chief Secretary instructing the Secretary of the Haryana Public Service Commission that if a candidate has taken advantage of reserved category in the preliminary round, he should not be allowed to change his category in the main examination. Suffice to say, the Chief Secretary's instructions cannot take precedence over what has been held by this Court in the judgments *ibid*.

6. In the premise, no grounds for interference are made out.

7. Dismissed.

8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 24, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No