

CWP-7806-2016 (O&M) & Connected Cases

230 (7Cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Reserved on : 17.08.2022
Pronounced on : 30.09.2022

1) CWP-7806-2016 (O&M)

Rekha RaniPetitioner

Versus

Chief Secretary to Government of Haryana,
Chandigarh and othersRespondents

2) CWP-991-2019 (O&M)

ManishaPetitioner

Versus

State of Haryana and othersRespondents

3) CWP-5619-2019 (O&M)

SoniyaPetitioner

Versus

State of Haryana and othersRespondents

4) CWP-14001-2019 (O&M)

Suman LataPetitioner

Versus

State of Haryana and othersRespondents

5) CWP-7849-2019 (O&M)

SumanPetitioner

Versus

State of Haryana and othersRespondents

6) CWP-13267-2019 (O&M)

SumanPetitioner

Versus

State of Haryana and othersRespondents

7) CWP-12472-2019 (O&M)

Ram BhateriPetitioner

Versus

State of Haryana and othersRespondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Aftab Singh Khara, Advocate
for the petitioner(s).

Mr. R.K.S. Brar, Addl.A.G., Haryana.

ARUN MONGA, J.

Since the material facts are analogous and issue involved in all these petitions is similar, they are being decided by a common order. For the sake of convenience, the facts are being taken from a petition bearing CWP No.7806 of 2016 (O&M).

2. Petitioner is before this Court *inter alia* seeking issuance of a writ, order and/or direction in the nature of mandamus directing the respondents to consider the representation dated 07.02.2016 (Annexure P-2) for considering her for out of turn appointment on a Group C post, as she is an Outstanding Sportsperson under the policy notification dated 20.08.2013 (Annexure P-2) .

3. Relevant material facts are that the petitioner is a domicile of Haryana. She won 2013 Commonwealth Wrestling Championship held at Kempton Park, South Africa and stood second in the Championship as per certificate of her merit (Annexure P-3). Proforma respondent No. 3 (Pooja Danda) also participated in the same competition, won medal and her name was recommended for appointment on Group C post in the Sports Department. Under the policy notification dated 20.08.2013 (Annexure P-2), the eligible Outstanding Sportsperson were to be appointed in the Department of Sports & Youth Welfare. Later, respondent No. 2 issued another policy dated 15.07.2014 [Annexure P-2

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in CWP No. 991-2019 (O&M)] for providing out of turn appointments to Outstanding Sportspersons also in the Departments of Home Development & Panchayats, Education etc., besides the Department of Sports & Youth Welfare. Petitioner's representation followed by legal notice dated 07.02.2016 Annexure P-2 to respondents No.2 did not fetch any response. Hence, this writ petition.

4. Short reply dated 14.09.2018 was filed by respondent No.2 stating that the Government has notified rules known as "The Haryana Outstanding Sportspersons (Recruitment and Conditions of Service) Rules, 2018 on 05.09.2018 (Annexure R-1) and that the petitioner may apply for Government job as per the said 2018 Rules.

5. I have gone through the record and heard the learned counsel for the parties.

6. The written reply filed by official respondent No.2 is absolutely silent about the petitioner's categorical averments in the petition to the effect that proforma respondent No. 3 (Pooja Danda) also participated in the same competition, won medal and her name had been recommended for appointment on Group C post in the Sports Department. These categorical averments in the petition are thus impliedly admitted by the official respondents.

7. It thus emerges that while proforma respondent No.3 (Pooja Danda) who participated in the same competition had been recommended for appointment on Group C post in the Sports Department in terms of the Sports policy of 2013 as modified in 2014, but the petitioner has been denied parity with former. Instead of considering her claim at par with proforma respondent No.3 in terms of the same Sports policy of

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2013 as modified in 2014, the petitioner is now being told that she may apply for Government job as per the changed policy in terms of 2018 Rules (Annexure P-2).

8. At this stage, it is pertinent to note the material difference between the 2013 policy as modified in 2014 vis-à-vis the changed policy (2018 Rules). Under the 2013 policy as modified in 2014, all eligible sportspersons irrespective of their number, are to be straightaway appointed. As against this, Rule 5 of the 2018 Rules stipulates that the appointments thereunder shall be made against the vacancies reserved for sportspersons. Thus, the appointments under the 2018 Rules shall be restricted to the number of vacancies reserved for sportspersons. Of course, the explanation below Rule 5 thereof does say that the Government may at its discretion create special posts for sportspersons to obviate any impediment to the appointment of sportspersons. Whether or not to create any special posts for all eligible sportspersons is left to the sole discretion of the Government under the 2018 Rules. Thus, the changed policy (2018 Rules) is highly disadvantageous to the petitioner vis-à-vis the 2013 policy as modified in 2014.

9. In my opinion, the stand of the official respondents is one of step-motherly treatment meted out to the petitioner and a case of hostile discrimination against her, who is similarly placed with proforma respondent No. 3. As already stated, the latter who participated in the same competition, was recommended for appointment on Group C post in the Sports Department in terms of the Sports policy of 2013 as modified in 2014, but the petitioner is being asked to apply for Government job as per the changed policy in terms of 2018 Rules

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(Annexure P-2) laying down the new criteria which is highly disadvantageous to the petitioner vis-à-vis the 2013 policy as modified in 2014.

10. To my mind, the petitioner deserves parity with proforma respondent No. 3 and it is a fit case for directing the official respondents to consider the petitioner's claim for out of turn appointment on Group C post in terms of the Sports policy of 2013 as modified in 2014 at par with proforma respondent No. 3.

11. The claims of the petitioner(s) in the connected petitions for out of turn appointment are also based on their achievements in the discipline of respective sports events held before 05.09.2018, the date of issue of the changed policy in terms of 2018 Rules (Annexure P-2). I have opined and held above that it is a fit case for directing the official respondents to consider the petitioner's claim in CWP No. 7806-2016 (O&M) for out of turn appointment on Group C post in terms of the Sports policy of 2013 as modified in 2014 at par with proforma respondent No. 3. *A priori*, the impugned orders passed in the connected cases rejecting the petitioners' claim for out of turn appointment on Group C post, based on their achievements in the discipline of respective sports events held before 05.09.2018 ought to be set aside with direction to the official respondents to consider the claims in terms of the Sports policy of 2013 as modified in 2014. As a result of above discussion, these petitions are partly allowed and the impugned orders passed in the connected cases rejecting the petitioners' claim for out of turn appointment on Group C post are set aside with direction to the official respondents to consider the cases of the petitioners in all these

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cases under the Sports policy of 2013 as modified in 2014 and pass appropriate speaking orders. Needful be done within three months of the supply of certified copy of this order.

- 12. Petitions stand allowed in above terms.
- 13. Pending civil miscellaneous application, if any, also stands disposed of.

(ARUN MONGA)
JUDGE

September 30, 2022
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No