

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

**CWP-6619-2018
Decided on : 10.10.2022**

Union of India and others

... Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench, Chandigarh and
others

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE JAGMOHAN BANSAL**

Present: Mr. Arvind Moudgil, Advocate for the petitioners.

Mr. Varlin Garg, Advocate, Legal Aid Counsel
for respondent No.2

G.S. Sandhawalia, J. (Oral)

Present writ petition under Articles 226/227 of the Constitution of India has been filed against the order passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as 'the Tribunal') dated 03.08.2016, wherein the Tribunal had directed that the appointment to the post of LDC be made in favour of respondent No.2 being the next eligible candidate in the merit. The same was done on account of the fact that even the counsel for the Union of India had prayed that one month time be given to the authority to offer appointment to the applicant in terms of the averment made in para No.4 of the written statement.

2. Counsel for the petitioners-UOI has mainly tried to convince us that the order is not justified, since respondent No.2 belongs to Bhat Brahmin caste, which is supposed to be not belonging to the caste listed in the Central List, as per the terms of the advertisement (Annexure A-1).

3. Counsel for respondent No.2 on the other hand has taken us to the notification dated 10.09.1993 issued by the Government of India, wherein at Sr. No.10 for the State of Himachal Pradesh, the caste Bhat has been mentioned.

4. A perusal of the notification dated 10.09.1993 would go on to show that keeping in view the judgment of the Apex Court passed in **‘Indira Sawhney and others Vs. Union of India and others’ 1993 (1) SCT 448** regarding the reservation of 27% vacancies in civil posts and service under the Government of India in Other Backward Classes (OBCs), the common list was prepared for 14 States including Himachal Pradesh.

5. In order to controvert the stand taken in paragraph No.2 of the written statement filed before the Tribunal (Annexure R-1) that Bhat Brahmin is included in the State list of OBC of Himachal Pradesh, the petitioner has placed the said notification also on record as Annexure R-2/1. However, no Central list had been appended alongwith the written statement filed before the Tribunal, in order to further the case of the Union of India as argued now. Rather paragraph No.4 of the written statement filed before the Tribunal would go on to show that the applicant had been recommended for the post of LDC as Stand by-I by the competent authority, which is apparently after due consideration as she was duly eligible.

6. Thus, the argument raised by the counsel for the petitioners/UOI is *per se* against their own stand and the Tribunal had, thus, rightly directed that consideration be made, vide order dated 03.08.2016. Unfortunately, the Union of India in spite of order having

been passed wayback 6 years ago and without any interim order in their favour has not even implemented the said order and also in spite of the fact that on 08.09.2022 we had given liberty to respondent No.2 to execute the order in accordance with law. Thus, the present writ petition is absolutely misconceived, in view of the stand taken in paragraph No.4, which reads as under:-

“(4) That even otherwise, it is submitted that the answering respondents has conducted the selection in a very fair manner duly constituted selection board and the contention of the applicant that applicant has been ignored by the Board of Officers while awarding marks is her own misconception as the appointing authority has called overall top performers for interview. The same was followed by the BOO in letter and spirit. BOO called 13 candidates for interview on 22.08.2014. BOO short listed 03 candidates amongst 13, who scored the highest marks in all other activities. Subsequently, BOO had recommended the name of candidates for the post of LDC as Ravinder Kumar (Main), Sita Devi (Stand by-1) and Rahul Pal (Sand By II) to the competent authority. However, it is submitted that the applicant has approached this Hon'ble Court on the aegis of mere presumption that BOO had recommended the name of Ravinder Kumar with malafide intention. It is thus, submitted that it is a mere wrong tactics of applicant to derail the administrative process of selection as the contention does not support with any documentary evidence.”

7. In the absence of any other Central list where the caste Bhat Brahmin has not been shown, we are of the considered opinion that reliance placed by the counsel for the respondent No.2 upon the notification dated 10.09.1993 is justified. Rather a perusal of the certificate also issued by the competent authority namely the Naib Tehsildar, Pachhad, District Sirmaur (Annexure R-2/2) would go on to

show that the caste Bhat Brahmin has been recognized as Other Backward

Classs by the State of Himachal Pradesh. Similarly, the certificate dated 28.05.2014 (Annexure R-2/3 colly.) would go on to show that the District Magistrate, Sirmaur has also certified that Bhat Brahman community is recognized as a backward class under the Government of India, Ministry of Social Justice and Empowerment's Resolution No.12011/44/96-BCC dated 6th December, 1996.

8. In such circumstances, we are of the considered opinion that there is no infirmity in the order passed by the Tribunal, which was also on the concession given by the counsel for the Union of India.

9. Accordingly, the present writ petition is dismissed with costs of Rs.25,000/- to be paid to the respondent No.2/applicant. The order of the Tribunal be complied forthwith. The respondent No.2/applicant shall also be given all notional benefits of seniority from the date of the order passed by the Tribunal, as she has been kept out of service unnecessarily for the past period of 4 years.

(G.S. SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

10.10.2022
Naveen

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