

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

LPA No. 1905 of 2017 (O & M)

Date of Decision: 09.12.2022

Jaswinder SinghPetitioner(s)

Versus

State of Punjab and anotherRespondent(s)

AND

LPA No. 2014 of 2017 (O & M)

Mamta RaniPetitioner(s)

Versus

State of Punjab and othersRespondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Nishant Indal, Advocate,
for Mr. Anil Mehta, Advocate,
for the petitioner.

Mr. Rohit Ahuja, DAG, Punjab.

G.S.SANDHAWALIA, J. (Oral)

The present judgment shall dispose of two appeals i.e. LPA Nos.1905 and 2014 of 2017, which are directed against the common judgment dated 29.09.2017 of the learned Single Judge passed in CWP No. 15547 of 2014, Jaswinder Singh vs. State of Punjab and another in which case the petitioner belongs to a backward class category and in CWP No. 12800 of 2014, Mamta Rani vs. State of Punjab and others, in which the writ petitioner was a dependant of an ex-serviceman. The challenge had been raised in both the cases to the termination order passed by the State on account of the fact that their certificates as such to avail the benefit of

reservations which were required to be issued within one year from the last date of submission of application forms i.e. 09.10.2009 were beyond the said period. The learned Single Judge relied upon an earlier judgment passed in CWP No. 5560 of 2011, Jaspal Kaur and others vs. State of Punjab and others and came to the conclusion that it was of the same very advertisement in question dated 23.09.2009 and once the certificates in support of such reservation were not as per the relevant clauses of the advertisement, they could not be considered for appointment on the basis of their merit determined in the selection process. The appellants in question had joined as Punjabi Master/Mistress in the year 2011. The show cause notices were issued on account of a challenge having been raised in CWP No. 9190 of 2013, Raminder Kaur vs. State of Punjab.

Counsel for the State has pointed out that the said petition of *Raminder Kaur (supra)* was dismissed on 29.09.2017 in which parity had been sought on account of the appointments given to the present appellants. LPA No. 12 of 2018 was then filed by Raminder Kaur which was dismissed on 17.09.2018 by holding that the advertisement or notification issued prescribing conditions for appointment constitutes a representation to the public. The authority is bound by such representation and cannot act contrary to the same and if the writ petitioner was not possessing the requisite lineal descendant certificate for being considered under the Dependant of Ex-servicemen category, she could not be held eligible for being considered for appointment and cut off date prescribed was sacrosanct. It was further held that the deviation from the Rules allows entry to ineligible persons on one hand and on the other hand deprives other similarly situated persons who are eligible in all respects on the cut of date.

It has also been brought to our notice that in LPA No. 1233 of 2016, Raminder Kaur vs. State of Punjab and others and connected LPA Nos. 1256, 1270 and 1732 of 2016 against another order of learned Single dated 16.02.2016 were dismissed on 16.03.2022 which also arose out of the same advertisement. It had been accordingly noticed in the said appeals while placing reliance upon the general conditions of the advertisement mentioned at Sr. No.4 to 7 which prescribed the time limit as such of the last date of submission of applications that the certificates had to be in terms of the letters dated 17.01.1994 and 17.08.2005 issued by the Department of Welfare, Punjab. The condition No.6 had thereafter been modified to incorporate that the certificate of Backward Class category should be of within one year of the last date of submission of applications as per the letter of the Government dated 24.02.2009 issued by the Welfare Department.

Accordingly, it was held that it was the duty of the writ petitioners to obtain a valid certificate as per the terms of the advertisement and no fault could be found in the action of the State since the income of the family could keep on fluctuating and whether she falls in the said category or not for claiming the benefit of the backward class. As per the case of the writ petitioner himself, in case Jaswinder Singh's certificate is dated 18.12.2009 which is apparently after the cut off date and, therefore, the said judgment would cover the present case also. Regarding Mamta Rani, the certificate was also issued on 31.12.2009, which is again after the cut off date and, therefore, it was not as per the terms of the advertisement.

In such circumstances, the principles laid down by the Division Benches in both *Raminder Kaur's cases (supra)* would also be applicable.

Thus, keeping in view the above, since the principle stands settled beyond an

anvil of doubt, we do not find any reason to interfere in the well reasoned orders passed by the learned Single Judge. Accordingly, both the appeals stand dismissed.

(G.S. SANDHAWALIA)
JUDGE

09.12.2022
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(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No