

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 646 of 2023

Date of Decision: 28.04.2023

Sunita Rani and Others

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Parvesh K. Saini, Advocate
for the petitioner(s).

Mr. R.K.Kapoor, Additional Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.

1. In substance, the grievance of the petitioners is to the effect that the respondents have failed to shift meritorious Reserve Category Candidates in the merit list prepared for the open category, as per the well settled law and the policy instructions adopted by the State on 25.09.2017. In order to apprehend the controversy involved in the present case, the following relevant facts are required to be noticed.

2. On 08.01.2022, a recruitment notice to recruit 4161 posts of Masters in different streams/subjects was issued. In the present case, the selection to 790 posts of Masters in the English and Maths subjects is in dispute. The selection was based on the marks obtained in the written test. After result of written test was declared, the candidates were called for counselling w.e.f. 20.10.2022. After completing the counselling i.e. checking

of the documents produced by the candidates, merit list was required to be

prepared. The respondents, simultaneously, prepared the merit list of the open category and various reserved categories including vertical as well as horizontal. It was found that the posts of ex-servicemen (general) as well as the sports (general) categories as shown are not available. In the subjects of English as well as Mathematics, a decision was taken to unreserve those posts which remained unfilled and filled through open category.

3. At the first stage, the recruiting agency has followed the instructions issued by the State on 25.09.2019 in order to adjust the meritorious reserved category candidates against the open category if their marks are more than the last selected general category candidate. However, with regard to the post/vacancy which became available on account of conversion from the reserved category to the open category, the recruiting agency has refused to follow the same procedure.

4. The learned State counsel, on the instructions from Mr. Harpreet Singh, Assistant Director, Office of the Director General School Education, Punjab, admits that the process for preparing the merit list as well as the unfilled vacancies to open category was taken on the same day and the subsequent list was also prepared on the same day.

5. The learned State counsel has relied upon the judgment passed in *Rajiv Mittal v. Maharshi Dayanand University (1998)2 SCC 402* to contend that the State is required to follow the aforesaid procedure only at the time of preparation of the first merit list and in the subsequent merit list.

6. This Court has carefully examined the judgment passed in *Rajiv Mittal's (supra)*. This judgment relates to the admission in an educational institution. In that case, the students were allocated the various

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colleges/institutions. Subsequently, certain seats became available. It was in those facts, the Supreme Court held that the procedure followed was not erroneous. However, in the present case, the select list of the original open category as well as the unfilled converted posts was prepared on the same day. Hence, the only exercise which was required to be undertaken was to prepare a fresh list because no appointment letter has been issued at that time.

7. The learned State counsel also admits that no candidate has been permitted to join pursuant to the selection.

8. Keeping in view the aforesaid facts, the State of Punjab is directed to prepare a consolidated list of the open category as well as the post which have become available on account of conversion of the unfilled posts and carry out the exercise afresh.

9. With the observations, the present writ petition is disposed of.

(Anil Kshetarpal)
Judge

April 28, 2023
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No