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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP-10229-1997 (O&M)  
*Date of Decision:11.12.2023*

**HARJIT SINGH AND OTHERS** .....Petitioners

V/s.

**STATE OF PUNJAB AND OTHERS** .....Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**

Present: None for the petitioners.

Mr. D.K. Singal, Addl. A.G., Punjab for respondents No.1 to 5.

None for the private respondents.

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**SANJEEV PRAKASH SHARMA, J. (Oral)**

1. The appointment on various Class IV posts is challenged by the petitioners conducted in the year 1997 by way of this Writ Petition.

2. Respondents No.1 to 4 have filed their reply stating that various posts of different categories of Class IV were published in the Newspaper and only the applicants who had been recommended by the Employment Cell of the District Welfare Officer were considered.

3. It is the case of the petitioners that in terms of the judgment passed by the Hon'ble Supreme Court in the case of **Excise Superintendent Malka-Patnam Krishna District A.P. Vs. K.B.N. Visweshwara Rao and Others; JT 1996 (9) SC 638**, in addition to the sending of the requisition of the employment exchange, the employer would advertise the post by publication in the newspapers and other media and give opportunity to all competent and eligible persons.

4. It is stated that the petitioners had already worked for 89 days and they had applied for various posts but were not considered.

5. The respondents in the reply have stated that the Petitioner No.1 and Petitioner No.2 i.e. Harjit Singh and Tej Singh were not eligible for the post of Sweeper for which they had experience, as the said posts were meant to be filled from the Scheduled Caste Category alone and were reserved for them. Petitioner No.3-Tej Singh was found unfit for the post of Sweeper for being handicapped as he was polio affected person. Merely because the petitioners had worked for 89 days on contract basis, no indefeasible right can be said to be created in their favour.

6. The Writ Petition was admitted and appointments have already been made on the posts.

7. The selection process was conducted by calling persons for interviews. It is noticed that the petitioners had participated in the selection process but were not found suitable and the respondents have challenged the maintainability of the Writ Petition on that count. It is also stated that the private respondents have more than 20 years regular service in the Department.

8. I have considered the submissions of the learned counsel for the parties.

9. The question of the petitioners not being sponsored by the Employment Exchange of the District Welfare Officer is first required to be addressed.

10. The judgment passed by the Supreme Court in the case of **Excise Superintendent Malka-Patnam Krishna District A.P.** (Supra) mentions that persons from open market apart from calling names from employment exchange ought to be allowed to participate in the selection

process. So far as the present advertisement is concerned, the same has to be examined as to whether it would be found to be wrongfully issued or not.

11. A look at the advertisement reflects that the applications have been invited from all the interested candidates. The corrigendum was issued on 13.06.1997 which informed that the interested candidates should be enrolled in the District Employment Exchange, Faridkot and their interviews be taken only if their names were sponsored by the District Employment Officer. Thus, a candidate who had applied for the post under the advertisement dated 04.06.1997 was also required to get himself registered with District Employment Exchange and was required to be sponsored by the District Employment Officer.

12. Thus, it is apparent that the corrigendum issued by the respondents has deprived other candidates to participate in selection and is vitiated in law. It could not have forced the candidates to get them first enrolled and then sponsored by the Employment Exchange and such a corrigendum is, therefore, held to be in violation of the observations of the Hon'ble Supreme Court and has to be treated as irregular. However, the names of the candidates who were sponsored by the employment exchange were considered and they were appointed. The petitioners submitted their applications for consideration for appointment and have already put in more than 20 years of service. It is not their fault.

13. Keeping in view their long service, while this Court principally reaches to a conclusion that the process of selection only limiting the candidates whose names were recommended by the employment exchange, was erroneous and does not promote open selection from open market, this

Court does not find any reason to grant relief to the petitioners nor can such selections which were made more than 20 years back be set aside. The same are, therefore, saved. At the same time, in terms of the judgment **Excise Superintendent Malka-Patnam Krishna District A.P.** (Supra), it is henceforth directed to make selections of Class IV employees by open advertisement and calling names of all persons who may possess the previous experience of working in the respondent-Department or elsewhere.

14. The petitioners who participated and had 89 days previous working experience in the Departments, are found to have been left out arbitrarily, but due to the pendency of this Writ Petition for more than 25 years, it has become almost impractical to direct the respondents to offer them consideration for appointment.

15. In view thereof, this Writ Petition is **dismissed** by efflux of time.

16. All the pending applications in this Writ Petition stand disposed of accordingly.

**December 11, 2023**

*Ess Kay*

**[SANJEEV PRAKASH SHARMA]  
JUDGE**

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|------------------------------------|---|------------|---|-----------|
| <i>Whether speaking / reasoned</i> | : | <i>Yes</i> | / | <i>No</i> |
| <i>Whether Reportable</i>          | : | <i>Yes</i> | / | <i>No</i> |