

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

1. LPA-108-2022 (O&M)

State of Punjab and others ...Appellants

Vs.

Ramandeep Kaur Gill ...Respondent

2. LPA-68-2022 (O&M)

State of Punjab and others ...Appellants

Vs.

Vipul Munjal ...Respondents

3. LPA-69-2022 (O&M)

State of Punjab and others ...Appellants

Vs.

Gurvinder Singh and ors. ...Respondents

Date of decision: 18.12.2023

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AMAN CHAUDHARY**

**Present: Mr. Rohit Bansal, Sr. DAG, Punjab
for the appellants (s) in all the appeals.**

Mrs. Avin Kaur Sandhu, Advocate
for the respondent in LPA No. 108-2022

Mr. Brijesh Kumar, Advocate
for the respondent in LPA No. 68-2022

Mr. Rajiv Atma Ram, Sr. Advocate with
Mr. Brijesh Khosla, Advocate,
Mr. Sumbhav Parmar, Advocate
for the respondent in LPA No. 69-2022

Ritu Bahri, Acting Chief Justice

1. This order shall dispose of the above three Letters Patent

Appeals challenging the judgments dated 05.04.2021 passed in CWP No.

24287 of 2019 and 25652 of 2018 and judgment dated 25.03.2021 passed in CWP No. 24345-2018 whereby writ petitions filed by the petitioner (s) were allowed. However, for facility of reference, the facts are being taken from LPA No. 108-2022.

2. A bare perusal of the impugned judgment shows that pursuant to advertisement dated 24.10.2016, the writ-petitioner/respondent applied for the post of Sub Divisional Engineer (Civil) in the year 2016 in the General Category in Water Resources (Irrigation), Department. There were total 198 posts, out of which 145 posts were in the Water Resources (Irrigation) Department, Punjab. The merit list was prepared on 25.04.2017 and the petitioner's name appeared at Sr. No. 113. However, the appointment letter in the said category was issued upto Serial No. 107 and the last set of appointments were made, vide order dated 30.04.2018.

3. It is not in dispute that a number of candidates failed to join and, thus, vacancies became vacant. Accordingly, the writ petitioner/respondent submitted a representation dated 09.05.2018 to fill the said vacancies and the same was rejected, vide communication dated 01.08.2018 (Annexure P-28) on the sole ground that one year has elapsed since the commencement of the selection process.

4. The Learned Single Judge allowed the writ petition, keeping in view the communication dated 15.06.2018 (P-23) sent by Addl. Secretary, Water Resource Department wherein it has been stated that to fill the vacant vacancies i.e 07 vacancies of General Category, 02 vacancies of SC (others) category, 02 vacancies of balmiki/Majjbi Sikh Category and one vacancy in LDESM Pb Category, as per Government instructions. The copy of this letter was sent to Chief Engineer/Canals.

5. The Learned Single Judge has rightly observed that no Rule/instructions has been shown by learned State counsel that bars filling up all vacant seats after one year of the commencement of the selection process. Further, it was the State Government itself who directed the concerned Nodal Officer to fill up vacancies, vide communication dated 15.06.2018 (P-23).

6. Heard learned counsel for the parties.

7. Reference at the very outset can be made to communication dated 15.06.2018 (P-23) at page No. 274 of the paper book, which clearly shows that a direction has been issued to Supdt Engineer cum Nodal Officer (Joint Counselling), Construction Division No. 2 PWD B & R Branch, Patiala to conduct re-counselling as to fill vacant posts of Sub Divisional Engineer's (Civil) remained in Water Resource Department.

8. Learned counsel for the appellant (s) has tried to interpret this communication to the Court that this communication dated 15.06.2018 was issued having inter department counselling. He has further stated that after selection process was over, some of the selected candidates did not join as they want to join in some other department and in this backdrop, letter dated 01.08.2018 (P-28) was issued wherein it has been stated that as more than one year had elapsed pending selection process, so no joint counselling will be conducted and the posts lying vacant in three departments shall be considered in future selection process.

10. This Court finds that the above letter dated 01.08.2018 (P-28) has no bearing for filling up of vacant posts, as mentioned in communication dated 15.06.2018 (P-23). Even today, learned counsel for the appellant (s) has not been able to inform the Court as to when after re-counselling was

not done then how 07 vacancies as reflected in Annexure P-23 were filled up. The Learned Single Judge has rightly allowed the writ petition by observing that the State has not been able to justify non-filling of the vacancies after a period of one year had elapsed. The writ petitioner/respondent was not seeking re-counselling but they were only seeking appointment on vacant posts, as per merit list dated 25.04.2017.

11. Learned counsel for the appellant has further submitted that after the merit list dated 25.04.2017, further selection had already been made on the vacant posts. This argument cannot be read against the writ petitioner/respondent, as in the present, this Court on 14.03.2022 had stayed the operation of the impugned judgment with the condition that the appointments made by the appellant will be subject to decision of these writ petitions.

12. Since the posts were lying vacant and the name of writ petitioner/respondent was in merit list, no ground is made out to interfere in the judgment passed by learned Single Judge.

13. Accordingly, the present appeals fail and the same are dismissed.

14. Since main appeals itself have been dismissed, all civil misc applications stand dismissed.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

18.12.2023
G Arora

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