

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

**CMs-1091-92-LPA-2023 in/and
LPA-287-2023(O&M)
Date of decision: 18.07.2023**

Chandandeep Singh

... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. Gurminder Singh, Senior Advocate, with
Mr. Gurnoor S. Sandhu, Advocate, for the appellant.
Mr. Avinit Avasthi, Assistant Advocate General, Punjab.
Mr. Rajiv Atma Ram, Senior Advocate, with
Ms. Sanah Sahni and Mr. Brijesh Khosla, Advocates,
for respondent No.5.
Mr. Rohit Sud, Advocate,
for the applicant in CMs-1091-92-LPA-2023.

RAVI SHANKER JHA, C.J. (Oral)

1. This appeal has been filed by the appellant being aggrieved by order dated 03.03.2023, passed by the learned Single Judge in CWP-24811-2021, whereby the petition filed by the present appellant has been dismissed, while CWP-26306-2021, filed by respondent No.5-Prabhjot Kaur, has been dismissed as infructuous in view of the decision taken by the learned Single Judge in the case of appellant in CWP-24811-2021.

2. Before the learned Single Judge, two absolutely contradictory stands were taken by the Department of Home Affairs & Justice, Government of Punjab and the Department of Social Justice, Empowerment & Minorities, Government of Punjab, i.e. respondents No.1 & 2 in the present appeal. The

Department of Home Affairs & Justice (respondent No.1) maintained that the post in question was reserved or was required to be reserved for Scheduled Caste Sports, Punjab (Women) category, while the Department of Social Justice, Empowerment & Minorities (respondent No.2) took a stand that the post in question was required to be reserved for Scheduled Caste Sports, Punjab (80).

3. Learned Single Judge accepted the stand taken by the Department of Home Affairs & Justice (respondent No.1) and on that basis decided the writ petition, vide impugned order dated 03.03.2023.

4. During the course of hearing, in the present Letters Patent Appeal, this Court taking note of the conflicting stands taken by different departments of the State, had directed the Chief Secretary, Punjab to resolve the conflict and file an affidavit clearly stating the stand that the State proposes to take in the matter.

5. Pursuant to the directions issued by this Court, the Chief Secretary, State of Punjab, has filed two affidavits, first on 28.03.2023 and second on 01.06.2023. In the said affidavits, the State has clearly taken the stand that reply and affidavit submitted in the original writ petition by respondent No.2, i.e. Department of Social Justice, Empowerment & Minorities, was correct, and the stand taken by respondent No.1, i.e. Department of Home Affairs & Justice, was incorrect. In the said affidavits, the Chief Secretary, State of Punjab has also stated that an apparent mistake crept into the advertisement in reserving a post of DSP in the Scheduled Caste Sports Person (Woman) category, and that the post should, in fact, have been reserved for Scheduled Caste Sports Person. The Chief Secretary has also proposed that

in such circumstances, the advertisement as far as it relates to the post in question deserves to be withdrawn and a fresh advertisement requires to be issued.

6. In the light of the aforesaid facts, and the stand of the State Government taken in the affidavit by the Chief Secretary, which was not taken up or placed before the learned Single Judge, and therefore the learned Single Judge had no occasion or advantage to go through the same and take a decision on that basis, we are of the considered opinion that the matter deserves to be remanded back to the learned Single Judge for re-consideration in view of the changed stand by the State Government after setting aside the impugned order dated 03.03.2023 (in CWP-24811-2021).

7. We are also of the view that in such a situation, the order dated 03.03.2023, passed in CWP-26306-2021, disposing of the petition as infructuous, also deserves to be set aside, and both the petitions are required to be considered and decided on merits by the learned Single Judge afresh.

8. Ordered, accordingly.

9. The learned Single Judge may permit the parties to make fresh pleadings in the light of the changed circumstances, if so advised.

10. Application(s), if any, also stands disposed of.

(Ravi Shanker Jha)
Chief Justice

(Arun Palli)
Judge

18.07.2023
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES/NO
YES/NO