

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

CWP-21080-2012 (O&M)

Date of decision: 02.05.2023

Reena Sahota

....Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

Present:- Mr. K.S.Dadwal, Advocate for the petitioner

Mr. R.K. Kapoor, Addl. AG, Punjab

Mr. Rajesh Verma, Advocate for respondent no.3

Mr. G.P.S.Bal, Advocate for respondent no.4

Mr. Arshdeep Bhullar, Advocate for
Mr. Vivek Sharma, Advocate for respondent no.5

ANIL KSHETARPAL, J (Oral)

1. After hearing learned counsel representing the parties, the following order was passed on 28.04.2023:-

“The petitioner is aggrieved of the fact that two unfilled posts of SC (ESM) (M&B) have been converted into one post of SC (ESM) (R&O) and one post of SC (M&B). It is the case of the petitioner that both the unfilled posts of SC (ESM) (M&B) should have been converted to SC (ESM) (R&O).

The attention of the learned counsel representing the petitioner has been drawn to Section 4 of the Punjab Scheduled Castes and Backward Classes (Reservation in Service) ACT, 2006, who prays for some time to examine the same before assisting the Court.

Adjourned to 02.05.2023.”

2. The learned State counsel has drawn the attention of the Court to the detailed judgment passed in CWP-8833-2013 titled as ‘Agya

Pal and another vs. State of Punjab and others' decided on 16.03.2023 alongwith other connected cases.

3. In this judgment, the provisions of Punjab Scheduled Castes and Backward Classes (Reservation in Service) Act, 2006 have been considered in detail. The relevant discussion is given in para 18 of the judgment, which is extracted as under:-

“18. The argument of Sh.Puneet Gupta, Advocate, also does not has substance because the State while issuing instructions on 20.12.2001 has categorically provided that the additional reservation upto 2% for Vimukt Jatis and Bazigars will come into operation only if the posts are left unfilled in the quota reserved for Balmikis and Mazhbis, Scheduled Caste Ex-serviceman and Scheduled Caste sportsman. Hence, 2% reservations for the Vimukt Jatis and Bazigars cannot be read in a manner as suggested by the counsel as the instructions are neither in addition to the reservation for the Scheduled Caste nor create any sub-category apart from the four categories noticed above. Once the learned counsel representing the petitioners do not dispute that Vimukt Jatis and Bazigars falls within the sub category 'others' of the broad category of Scheduled Caste, then, there is no occasion for the Court to hold that the State intended to provide separate reservation to the extent of 2% from the total posts advertised. In fact, this will come into operation only on the happening of an eventuality. The candidates belonging to Vimukt Jatis and Bazigars are entitled to be considered amongst the Scheduled Caste (Ramdasias and Others). Thereafter, if the posts are left unfilled in the quota reserved for Balmikis and Mazhbis, Scheduled Ex-serviceman and Scheduled Caste Sportsman, then, they are entitled to be considered in that category. This 2% of unfilled quota is restricted to the quota reserved for Balmikis, Mazhbis, Scheduled Ex-serviceman and Scheduled Caste Sportsman. This

provision is in fact, in the nature of an effort of the State to grant representation to the Vimukt Jatis and Bazigars.”

4. Moreover, the recruitment notice in this case was issued on 26.07.2011. Nearly a period of 12 years has elapsed from then.

5. In view of the aforesaid position, at this stage, no substantive relief can be granted to the petitioner.

6. Disposed of.

7. All the pending miscellaneous applications, if any, are also disposed of.

02.05.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE