

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

110+245

CWP-13626-2023 (O&M)

Date of decision:24.08.2023

Gurwinder Singh & others

... Petitioners

Vs.

State of Punjab & others

... Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL.
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Mr. Sandeep Singh, Advocate for the petitioners.

Mr. R.S. Pandher, Sr. DAG, Punjab.

Ms. Sharmila Sharma, Advocate for respondents No.2 and 3.

...

DEEPAK SIBAL, J. (ORAL).

1. Through an advertisement dated 24.02.2023 the Punjab State Power Corporation Limited (for short 'PSPCL') invited applications for selection of candidates for an Apprenticeship Programme in the Lineman trade. Applications were invited for a total number of 1500 seats, out of which 904 seats were for the general category, 371 seats were reserved for members of the scheduled castes, 148 seats for the backward classes and 77 seats for the physically handicapped persons. The advertisement also contained the required/essential qualifications and the selection criteria. The last date to apply was 27.03.2023.

2. The petitioners applied for consideration of their candidature under the general category. They sat in the prescribed test which was to determine their merit. On the declaration of the result of the test the

petitioners did not find themselves to fall within the zone of consideration for allotment of seats for undergoing the training programme. At that stage, they knocked the doors of this Court through the instant petition to challenge therein the select list; the selection criteria followed by the PSPCL and the action of the PSPCL for not reserving 10% of the seats for the economically weaker sections of the society to which the petitioners claim to belong. Challenge has also been made to the constitutionality of Sections 3-A and 3-B of the Apprentices Act, 1961 along with Rule 5 of the Apprenticeship Rules, 1992 on the ground that these provisions do not provide for any reservation in apprenticeship programmes for the economically weaker sections of the society.

3. Learned counsel for the petitioners submitted that as per the instructions of the State of Punjab dated 28.05.2019 and 30.10.2020, reservations for the economically weaker sections in direct recruitment in civil posts and services of the Government of Punjab are required to be made to the extent of 10%; through decision dated 09.04.2021, the respondent/PSPCL has decided to implement the aforesaid instructions of the Government of Punjab in the PSPCL also; therefore, in the Apprenticeship Programme in question, 10% seats were required to be reserved for the economically weaker sections; similar instructions, as above, had been issued by the Government of Punjab with regard to reservation of posts for persons with disabilities and that in terms of those instructions, the respondent/PSPCL have reserved seats for the disabled persons in the Apprenticeship Programme in question and therefore, the action of the respondent/PSPCL not to reserve seats in such programme for

the economically weaker sections of the society is highly discriminatory.

4. Per contra, learned counsel for the respondents/PSPCL submitted that the petitioners, after having taken part in the entire selection process and having failed to make it to the select list, are estopped from challenging the same especially without impleading the selected persons; the respondents have made selections under the apprenticeship programme in question strictly in accordance with law; the petitioners applied under the general category and were considered under that category and that now their candidature cannot be considered under any other category.

5. Learned counsel for the parties have been heard and with their able assistance the record of the case has also been perused.

6. Through advertisement dated 24.02.2023, PSPCL invited applications from candidates who had completed ITI in Wireman/Electrician Trade for undergoing apprenticeship in the Lineman Trade. In pursuance to such advertisement, the petitioners applied for consideration of their candidature under the general category. Thereafter they appeared in the prescribed test. On the declaration of the results of the test, they found that they had failed to make it to the select list. At that stage they have knocked the doors of this Court through the instant petition to challenge therein the afore advertisement on the ground that in the same no reservations have been made for the economically weaker sections of the society to which the petitioners claim themselves to be the members of.

7. After having gone through the contents of the advertisement in question, the petitioners had applied for consideration of their candidature. At that time, they were aware that no seats had been reserved for the

economically weaker sections of the society. Nonetheless, they applied for consideration of their candidature under the general category. Only when they failed to make it to the select list have they chosen to challenge the advertisement primarily on the ground that in the same no reservation has been made for the economically weaker sections of the society. The petitioners are clearly estopped from doing so.

8. Further, the petitioners have approached this Court after the selection process is virtually over. The selected candidates have not been impleaded. If their prayer is to be accepted, the same would certainly be to the prejudice of such candidates. Therefore, in their absence, the present petition would not lie.

9. The reliance of the petitioners on the instructions of the State of Punjab dated 28.05.2019 and 30.10.2020 which have been adopted by the PSPCL is also mis-conceived as these instructions apply only to direct recruitment and not to Apprenticeship Training Programmes.

10. Even otherwise, the petitioners cannot claim reservation for the economically weaker sections of the society as a matter of right as provisions for making of such reservations are only enabling provisions for the State or its instrumentalities to make such reservations but only after considering all other relevant factors.

11. The plea of discrimination raised on behalf of the petitioners with regard to reservation of seats made in the advertisement for the physically disabled persons and not for the economically weaker sections of the society is also required to be considered only to be rejected. PSPCL is “State” within the definition of Article 12 of the Constitution of India. By

reserving seats for the physically handicapped persons to undergo a training programme would ultimately aid the physically handicapped persons in securing of vocations that would be in line with the object enshrined under Section 19 of the Rights of Persons with Disabilities Act, 2016 which provision provides for formulation of schemes and programmes to encourage inclusion of persons with disability in all formal and non-formal vocational and skill training schemes and programmes as also to ensure that persons with disability have adequate support and facilities to avail specific training. No similar provision with regard to reserving of seats for the economically weaker sections of the society has been pointed out.

12. In the light of the above discussion, no merit is found in the instant petition.

13. Dismissed.

14. It is clarified that since the present petition is being dismissed on its facts, the issue raised with respect to the challenge to the vires of Sections 3-A and 3-B of the Apprentices Act, 1961 along with Rule 5 of the Apprenticeship Rules, 1992 is left open.

(DEEPAK SIBAL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

24.08.2023

harjeet

1. Whether speaking/reasoned? Yes/No

2. Whether reportable? Yes/No