

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

**CWP-18679-2013 and
other connected cases
Reserved on: 18.05.2023
Date of decision: 10.07.2023**

SATISH KUMAR AND ORS

..Petitioners

Versus

STATE OF PUNJAB AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Puneet Jindal, Senior Advocate
with Ms. Malvi Aggarwal, Advocate
for the petitioner(s) (In CWP-18679-2013).

Mr. Innayat Khullar, Advocate
for the petitioner(s) (In CWP-18679-2013, CWP-7189-2013,
CWP-6734-2014, CWP-18538-2014, CWP-25256-2014,
COCP-3977-2018 and for the intervenor (In COCP-2340-2017).

Mr. Gurminder Singh, Senior Advocate
with Mr. M.S.Longia and Mr. Jatinder Singh Gill, Advocates
for the petitioner(s) (In CWP-3803-2014) and for the
respondent No.4, 6, 7, 8, 12, 38 and 40 (In CWP-18679-2013).

Mr. Sukhdev Singh Kamboj, Advocate for the petitioner(s) (In
CWP-5641-2014) and for respondents No. 20, 22, 23, 26 to 28,
31, 39, 42 to 44, 47, 48, 50, 51, 52, 54, 55 and 57 (In CWP-
18679-2013) and for respondent No. 24 (In CWP-2016-2017)
and for respondents No. 20, 22, 26, 27, 28, 38, 39, 42, 43, 48,
50, 54, 55 and 57 (In CWP-25256-2014).

Mr. M.K.Dogra, Advocate
for the petitioner(s) (In CWP-12357-2014, CWP-18520-2014,
CWP-22355-2015, CWP-27300-2015 and CWP-27371-2022).

Mr. Aayush Gupta, Advocate
for the petitioner(s) (In CWP-4128-2014) and
for the respondent No.33 (In CWP18679-2013).

Mr. Pardeep Singh Tur, Advocate,
for Mr. Mohd. Yousaf, Advocate
for the petitioner(s) (In CWP-27916-2017 and CWP-4430-
2018).

Mr. Baljinder Singh Khaira, Advocate
for the petitioner(s) (In CWP-5412-2017 and CWP-6618-2020).

Mr. Parvesh K. Saini, Advocate
for the petitioner(s) (In CWP-24859-2014).

Mr. Gagandeep Sandhu and Mr. Onkar Singh, Advocates
for the petitioner(s) (in CWP-11606-2014).

Mr. Satyendra Chauhan, Advocate
for Mr. P.S. Khurana, Advocate
for the petitioner(s) (In CWP-15699-2014, CWP-3090-2020
and CWP-15331-2014).

Mr. Vishal Sodhi, Advocate
for the petitioner(s) (In CWP-10497-2014, CWP-16536-2014
and CWP-2016-2017).

Mr. Baljinder Singh Bhana, Advocate
for Mr. Vishal Nehra, Advocate
for the petitioner(s) (In CWP-1018-2017, CWP-5025-2017,
CWP-3059-2021 and CWP-9614-2023) and for the petitioner
(In COCP-328-2019).

Mr. H.C. Arora and Ms. Sunaina, Advocates
for the petitioner(s) (In COCP-2340-2017, COCP-2584-2017
and COCP-2701-2018).

Mr. Munish Bhardwaj, Advocate
for the petitioner(s) (In CWP-1087-2014).
Mr. Deepak Gupta, Advocate
for the petitioner(s) (in CWP-24269-2014).

Mr. Aakash Singla and Mr. Tushar Sharma, Advocates
for the respondent No. 18 and 19 (In CWP-18679-2013).
Mr. V.K. Sandhir, Advocate.

Mr. Baljinder Singh, Advocate
for the petitioner (In COCP-328-2019).

Mr. K.L. Singla, Advocate
for the respondent No.4 (In CWP-15331-2014), respondent
No.4 (in CWP-1066-2015), respondent No.4 (In CWP-2910-
2020 and respondent No.4 (In CWP-3090-2020), for respondent
No.3 (In CWP-475-2020).

Ms. Alka Chatrath and Mr. Manu Sangwan, Advocates
for the respondent No. 4 to 8, 11 & 12 (In CWP-18679-2013)
and respondent No.4, 6, 7, 11, 12 & 15 (In CWP-6734-2014 and
CWP-10497-2014).

Mr. Sunny Singla and Ms. Riti Aggarwal, Advocates
for the respondent No. 24, 25, 29, 53 and 65 (In CWP-18679-2013).

Mr. Vijay Kumar Jindal, Senior Advocate
with Mr. Abhishek Kaushik, Advocate
for the respondent No.37 (In CWP-18679-2013), respondent
No.37 (In CWP-6734-2014), respondent No. 28 (In CWP-10497-2014), respondent No. 37 (In CWP-25256-2014 and
respondent No.28 (In CWP-2016-2017).

Mr. Johny, Advocate
for Mr. Arvind Kashyap, Advocate
for the respondent No. 64 (In CWP-6734-2014).

Mr. Naveen Kumar Kuhad, Advocate
for Mr. P.K.S.Phoolka, Advocate
for the applicant (In CM-12391-CWP-2021 In CWP-18679-2013).

Mr. Praagbir S. Dhindsa, Advocate
for Mr. H.S.Dhindsa, Advocate
for the respondent No. 66 and 68 (In CWP-18679-2013).

Mr. H.K. Brinda, Advocate
for the respondent No.4 to 7, 9 to 11 and 14 (In CWP-16536-2014) and for the respondent No. 63 and 70 (In CWP-18679-2013).

Mr. Madhav Pokhrel, Advocate
for the petitioner(s) (in CWP-543-2015 and CWP-1066-2015)for the respondent No.9, 11, 16, 30, 35, 49 & 71 (In CWP-18679-2013), respondent No. 23 & 26 (In CWP-16497-2014), respondent No.23 & 26 (In CWP-2016-2017), respondent No.16, 30, 35 and 71 (In CWP-25256-2014), respondent No.16, 30, 35, 49 & 71 (In CWP-6734-2014).

Mr. R.C. Sharma, Advocate
for the respondent No.34, 61, 62 and 67 (In CWP-18679-2013).

Mr. Navdeep Chhabra, Senior DAG, Punjab.

ANIL KSHETARPAL, J.

1. By a common judgment, with the consent of the learned counsel representing the parties, a batch of connected writ petitions and contempt petitions (details whereof are at the foot of the judgment) is being disposed

of.

2. The relevant facts in order to comprehend the controversy involved in the present case, are as under:-

3. On 23.10.2006, a recruitment notice was issued for inviting applications for 175 posts of physical training instructors (hereinafter referred to as 'PTI'). On 08.11.2006, a corrigendum was issued to increase the said posts from 175 to 849. It was provided in the eligibility criteria that the candidates must possess 10+2 with the professional qualification of Certificate of Physical Education (C.P.ED.). The selection was based on merit, determined by the percentage of marks obtained in the prescribed minimum academic qualification (10+2) and professional qualification. No written, physical test or interview was envisaged for the preparation of the merit list. The work of data collection and data processing was handed over to the Centre for Development of Advanced Computing, Mohali (hereinafter referred to as "C-DAC"). The only mode of application for candidates was online. Numerous cyber cafes were authorized to support to the candidates to submit their applications online. Each such cyber cafe was allotted a code number which was also reflected in the online application submitted by the candidates. After the candidate filled up the application form online, a temporary registration number was generated for such candidate. The final registration number was allotted after the successful submission of the application by the candidate. The final registration number was not the same as the temporary registration number as there was a possibility of several candidates filling up their online application form simultaneously and the candidate, whose application was successfully submitted first was allotted

the final registration number. It has been explained that after filling the application form online, the candidates are required to press the 'Submit' button and on pressing the 'Submit' button, the application is submitted and the button disappears, after that the filled-up data in the application automatically converts into a printable form, which can be printed by the candidate.

4. As many as 589 candidates were appointed against 849 posts advertised in the year 2006. In the year 2006, the candidates possessing the qualification of Bachelor of Physical Education/Diploma in Physical Education and Masters in Physical Education, who were not considered for the post of PTI, filed as many as 44 civil writ petitions, which were dismissed along with **CWP-19603-2006 (Jagjeet Singh Vs. State of Punjab and others)** by the Division Bench on 16.12.2008. However, in **CWP-451-2008 (Manjit Singh Vs. State of Punjab and others)** the question was referred to the Full Bench. On 13.07.2009, Special Leave Petition filed before the Supreme Court challenging the correctness of the judgment of the Division Bench in **Jagjeet Singh's case (supra)** was dismissed as withdrawn. On the other hand, on 08.01.2010, a Division Bench in **Neelam Rani Vs. State of Punjab 2010 (1) SCT 588** read down the Punjab State Education Class III (School Cadre) Service Rule, 1978 (hereinafter referred to as the '1978 Rules'), while declaring that there cannot be any exclusive reservation of male teachers to the extent of 50% though such provision is permissible for the female teachers. It was held that this judgment shall have the prospective application. The review application filed by the State of Punjab was dismissed. In this case, the recruitment was made on the basis of

1978 Rules i.e. dividing the posts equally between male and female physical training instructors.

5. In **Manjit Singh's case (supra)**, the Full Bench vide judgment dated 05.02.2010 held that candidates possessing higher qualifications in the same line have been wrongly excluded from the consideration for selection. In this case, the appointment letters of the selected candidates were not challenged and the petitioner in that batch of cases only sought directions to be considered for the vacant post of PTI after the appointment of the 589 candidates. After the decision of the Full Bench, the writ petitions were disposed of on 27.07.2010 by the learned Single Judge while directing the State of Punjab to consider the claim of the candidates possessing the higher qualifications in the same line. However, steps were not taken by the government and it resulted in the filing of COCP-1994-2010, which was disposed of on the basis of an affidavit filed by the Director contending that a public notice shall be issued requiring the candidates to appear and if they were found eligible, they will be appointed. On 22.06.2011, a public notice was issued, whereby every candidate was recalled for the fresh selection process, rather than considering petitioners in CWP-451-2008. This public notice led to the filing of various writ petitions in the High Court seeking protection of service in which interim protections were granted. Thereafter, the writ petitions were admitted for regular hearings while specifically continuing the ad interim order. In the year 2012 pursuant to the direction in **Manjit Singh's case (supra)**, 772 candidates were selected on the basis of the revised combined merit list, which included 254 candidates who were selected against the original list in the year 2006. The rest of the 518

candidates were given the appointment letters. In the meantime, CWP-12222-2012 (Virpal Kaur and others Vs. State of Punjab and others) was filed by the aggrieved female candidates that they have not been given appointments against 50% posts of PTI reserved for them as per the advertisement. Out of the 518 candidates, 399 candidates were given the offer of appointment, whereas, 119 candidates could not be given an appointment due to the various restraining orders passed in the writ petitions. This writ petition was finally decided to vide order dated 01.05.2013 in terms of the judgment passed in **Neelam Rani's case (supra)**.

The operative part of the order reads as under:-

“Since in the present case, the issue is with regard to special/horizontal reservation for women, if the number of women in list(s) prepared as above is equal to or more than the special reservation quota, then there is no need for further selection towards the special reservation quota of women. If there is a shortfall, the requisite number of women candidates of that particular category shall have to be taken by deleting corresponding number of candidates from the bottom of the list relating to that category. This principle is applicable for the horizontal reservation for women, which has been applied by this Court in Neelam Rani's case (supra) and, therefore, the claim of the petitioners deserve to be considered and decided accordingly.”

6. The Letters Patent Appeal filed by the State was kept pending because the judgment passed by the Division Bench in **Neelam Rani's case (supra)** was the subject matter of challenge before the Supreme Court. Recently, the judgment in **Neelam Rani's case (supra)** has been upheld by the Supreme Court. There was another round of litigation before the High Court. A large number of petitions were clubbed together, which were decided in **CWP-7646-2010, titled as “Rajwansh Kaur Vs. State of Punjab**

and others”, decided on 30.05.2016. In the aforesaid judgment the different claims of the petitioners were divided into the following four categories:-

- i. The first category was with respect to the selected candidates who were praying for retention in service, pursuant to the interim orders passed previously. These were candidates, who were selected and appointed in the year 2006.
- ii. The second category belonged to candidates appointed on the redrawn seniority list pursuant to the direction of the High Court by the Full Bench in **Manjit Singh's case (supra)**.
- iii. The third category related to 119 candidates, who were waiting for appointment against the unfilled vacancies as a result of Full Bench judgment.
- iv. In the fourth category, the entire selection process was challenged even though they were not applicants pursuant to the recruitment notice.

7. Keeping in view the facts of the case, the learned Single Judge ultimately granted relief to the first three categories while dismissing the writ petitions filed by the fourth category. Various Letter Patent Appeals were filed, which were decided on 25.08.2017 in **LPA-1248-2016, titled as “Ajaib Singh and others Vs. State of Punjab and others”**. The Division Bench after balancing the law and equity by slightly modifying the judgment of the learned Single Judge, disposed of the writ petition. The Division Bench refused to consider the cases of the candidates whose case did not fall in the category of recast merit on the ground that there are vacancies

existing.

8. As per the affidavit filed by the State, as of now, against the total 849 posts advertised, 1137 PTIs have been appointed. In the new Rules of The Punjab Educational (Teaching Cadre) Group 'C' Service Rules, 2018 (hereinafter referred to as the '2018 Rules'), notified on 21.05.2018, there is no provision for the post of PTI.

9. In this batch of writ petitions, certain candidates claiming to have secured a higher percentage of marks as compared to the selected and appointed candidates, claim directions to be appointed while challenging the marks awarded by the selection committee. The State of Punjab while filing the synopsis has categorized this batch of writ petitions into the following categories:-

i. Selected candidates who are in fact lower in merit than the last selected candidate in the general category but on account of wrong calculation by the select committee, they have been appointed.

ii. The second category relates to the candidates who failed to completely submit their applications, but were selected only on the basis of temporary registration.

iii. The third category is with respect to the candidates who do not fulfil the minimum qualification required as per the recruitment notice.

iv. In the fourth category, the persons who have filed the contempt petitions.

10. This Bench has heard the learned counsel representing the parties at length, and perused their synopsis as well as respective paperbooks.

11. Sh. Puneet Jindal, learned Senior counsel representing the petitioners in lead case i.e. CWP-18679-2013, while referring to the reports submitted by the State of Punjab from time to time, in support of his oral submissions has also filed a convenience note which reads as under:-

23.01.2020	<i>After considerable delay, needful was done and additional affidavit along with report was submitted by the Govt. accepting that there is wrongful selection of 20 candidates under the 2006 advertisement</i>
i)	<i>These are respondent No.4, 6 to 12, 15 and 16.</i>
a)	<i>Respondent No.5 has scored 60.97 marks as is clear from the perusal of Annexure P-11 (Page No.70), which is less than the cut-off marks, however, again wrongly shown as 66.82 marks.</i>
ii)	<i>Respondent No.13 is stated to have been dismissed vide order dated 14.12.2017 due to willful absence. Respondent No.17 was not issued any appointment order.</i>
b)	<i>Respondent No.14 according to petitioner is possession only qualification of MA and not M.PEd, therefore no eligible. This fact is admitted by the Respondents in Annexure R-1/T (Page 190) that these respondents have only passed MA Arts.</i>
iii)	<i>Respondent No.18 and 19 were accepted as cases of not having requisite educational qualification.</i>
c)	<i>However, the status report wrongly mentions that candidate 20 to 29, 32, 34, 39, 41 to 47, 50, 52 to 57, 61 and 62 have actually applied for the 2006 selection. On the other hand claim of petitioner based upon the data received from C-DAC and confirmed by the Department under the RTI is that they have not applied against 2006 advertisement.</i>
iv)	<i>In Annexure R-1/T (Page No.193-194) of the written statement, the State concluded that eight</i>

	<i>candidates (Respondent No.30, 31, 33, 35, 36 to 38 and 40) had not applied online but mislead the Chairman Selection Committee by false evidence during counselling.</i>
v)	<i>Out of the private respondents, 12 candidates i.e. Respondent No.63 to 70 were stated to have been selected against advertisement of 2007, wherein 260 backlog vacancies for reserved candidates were said to have been advertised. Thus, the remaining dispute is with regard to respondent No.5, 14, 20 to 29, 32, 34, 39, 41 to 47, 50, 52 to 57, 61 and 62 (highlighted above). For this petitioner have already submitted CM No.4514 of 2020 submitting their counter affidavit/objections. The list annexure A-6 attached with the CM is again being attached by mentioning Serial No. as respondents, which may be treated as modified annexure for the kind convenience of the court. The case of petitioners is that after removing above 29 candidates (belonging to categories of General as well as Reserve Category of ESM, SC/BC, petitioners be given appointment letters on various vacancies (400 mentioned above). Or in the alternative, in terms of the co-ordinate Bench decision rendered in CWP-10670 of 2010 decided on 27.01.2020.</i>

12. On the other hand, the learned counsel representing the State of Punjab has filed a synopsis along with a tabulated compilation of the information with respect to the various respondents, who have been divided into various categories. The same is extracted as under:-

Lower in merit

<i>Sr. No.</i>	<i>Respondent no.</i>	<i>Name</i>	<i>Merit as per record</i>	<i>Merit as calculated by the selection committee in the combined merit list</i>	<i>Explanation</i>
<i>1</i>	<i>7</i>	<i>Kamaljit Singh (name is</i>	<i>55.76</i>	<i>65.31556</i>	<i>Since the actual merit of the respondent is less than the merit (63.95) of the last</i>

		<i>misfigured as Kanwaldeep Singh)</i>			<i>selected candidate in General Category in the revised combined merit list, therefore, Show Cause notice has been issued, however, stay granted by Hon’ble Court in CWP-3090 of 2020 on dated 05.02.2020.</i>
2	8	<i>Rashpal Kaur</i>	<i>61.105</i>	<i>65.13799</i>	<i>Since the actual merit of the respondent is less than the merit (63.95) of the last selected candidate in General Category in the revised combined merit list, therefore, Show Cause notice for termination of services was issued on 09.01.2014. However, stay granted by Hon’ble Court in CWP No.15331 of 2014 on 04.08.2014.</i>
3	12	<i>Ritu</i>	<i>52.48</i>	<i>65.65</i>	<i>Since the actual merit of the respondent is less than the merit (63.95) of the last selected candidate in General Category in the revised combined merit list, therefore, Show Cause notice has been issued. However, stay granted by Hon’ble Court in CWP No.2910 of 2020 on 03.02.2020.</i>
4	4	<i>Jasbir Kaur</i>	<i>57.44</i>	<i>74.609</i>	<i>Since the actual merit of the respondent is less than the merit (63.95) of the last selected candidate in General Category in the revised combined merit list, therefore, Show Cause notice for termination of services was issued on 09.01.2014. However, stay granted by Hon’ble Court in CWP No.15330 of 2014 on 04.08.2014. LPA 2437 of 2014 has been filed by State is pending for adjudication for 04.07.2023</i>
5	6	<i>Livleen Singh</i>	<i>63.5</i>	<i>66.72222</i>	<i>Since the actual merit of the respondent is less than the merit (63.95) of the last selected candidate in General Category in the revised combined merit list,</i>

					<i>therefore, Show Cause notice for termination of services was issued on 09.01.2014. However, stay granted by Hon’ble Court in CWP No.15293 of 2014 on 04.08.2014. The said Civil Writ Petition was decided on 30.05.2016 along with Civil Writ Petition No.7646 of 2010 titled as Rajwansh Kaur Vs. State of Punjab. LPA No.284 of 2017 filed by the Department has been decided on 22.11.2018 in terms of LPA No.1248 of 2016.</i>
6	11	Gurvinder Singh	58.45	63.08	<i>Since the actual merit of the respondent is less than the merit (63.95) of the last selected candidate in General Category in the revised combined merit list, therefore, Show Cause notice for termination of services was issued on 09.01.2014. However, stay granted by Hon’ble Court in CWP No.15310 of 2014 on 04.08.2014. The said Civil Writ Petition was decided on 30.05.2016 along with Civil Writ Petition No.7646 of 2010 titled as Rajwansh Kaur Vs. State of Punjab. LPA No.2438 of 2016 filed by the Department has been decided on 25.08.2017 in terms of LPA No.1248 of 2016.</i>

Not applied for the post of PTI

<i>Sr. No.</i>	<i>Respondent No.</i>	<i>Name</i>	<i>Registration No.</i>	<i>Merit as per record</i>	<i>Merit as calculated by the selection committee in the combined merit list</i>	<i>Explanation</i>
1	30	Gurpreet Singh	7201	61.66	66.1111	<i>Since upon verification it was found that the respondent had never submitted an effective application, therefore,</i>

						<i>Show Cause notice for termination of services was issued on 09.01.2014. However, stay granted by Hon’ble Court in CWP No.1066 of 2015 on 31.01.2015. Moreover, merit wise also not eligible. It is also pertinent to mention here that registration no.7201 has been allotted to Perbhat Kapoor, who applied for the post of Headmaster. (Copy attached herewith).</i>
2	31	<i>Rajinder Pal Kaur</i>	511321	Nil	65.958	<i>Since the respondent had not applied against the posts advertised in year 2006, rather applied in the year 2011 as appear from the application form, where fee deposit date is mentioned as 28.05.2011 and also amount of fee deposited was 220 Rupees, which was not applicable as per advertisement of 2006, (Copy attached herewith). Therefore, Show Cause notice for termination of services was issued on 09.01.2014. However, stay granted by Hon’ble Court in CWP No.5641 of 2014 on 25.03.2014.</i>
3	33	<i>Jatinder Singh</i>	24504	Nil	65.007	<i>Since the respondent had not applied the posts advertised in year 2006, therefore, Show Cause notice for termination of services was issued on 09.01.2014. However, stay granted by Hon’ble Court in CWP No.4128 of 2014 on 05.03.2014. (Copy of the application</i>

						<i>attached herewith). It is also pertinent to mention here that registration no.24504 has been allotted to Jaswinder Kaur who applied for the post of Lecturer.</i>
4	35	<i>Gagandeep Kaur</i>	<i>1534</i>		<i>64.836</i>	<i>Since the respondent had not applied the posts advertised in year 2006, therefore, Show Cause notice for termination of services was issued on 05.12.2014. However, stay granted by Hon'ble Court in CWP No.543 of 2015 on 14.01.2015. It is also pertinent to mention here that registration no.1534 has been allotted to Gurbinder Kaur who applied for the post of Lecturer. (Copy attached herewith).</i>
5	36	<i>Archna Sudha</i>	<i>194</i>	<i>Nil</i>	<i>Nil</i>	<i>The respondent has not been issued any appointment order by the Department as she did not apply for the post. It is also pertinent to mention here that registration no.184 has been allotted to Jyoti Bala who applied for the post of Lecturer. (Copy attached herewith).</i>
6	37	<i>Asha Rani</i>	<i>11800601</i>	<i>Nil</i>	<i>64.694</i>	<i>Since the respondent had not applied against post advertised in year 2006, as depicted from the original form attached in the scrutiny file, where fee is mention as 250 rupees, which was not applicable as per advertisement in the year 2006 of 849 PTI posts. (Copy attached) therefore, Show Cause notice for</i>

						<i>termination of service was issued on 09.01.2014. However, stay granted by Hon’ble Court in CWP No.5641 of 2014 on 25.03.2014.</i>
7	38	<i>Manjit Kaur</i>	<i>11672</i>	<i>Nil</i>	<i>64.692</i>	<i>Since the respondent had not applied against post advertised in year 2006, as per record original file has already been submitted for reference in the Hon’ble Court. Therefore, Show Cause notice for termination of service was issued on 09.01.2014. However, stay granted by Hon’ble Court in CWP No.3803 of 2014 on 28.02.2014. It is also pertinent to mention here that registration no.11672 has been allotted to Narinderjit Kaur who applied for the post of Lecturer.</i>
8	40	<i>Kiranjit Kaur</i>	<i>245</i>	<i>Nil</i>	<i>64.314</i>	<i>Since the respondent had not applied the posts advertised in year 2006, therefore, Show Cause notice for termination of services was issued on 05.12.2014. However, stay granted by Hon’ble Court in CWP No.3803 of 2014 on 28.02.2014. It is also pertinent to mention here that registration no.245 has been allotted to Shashi Kant Bedi, who applied for the post of Headmaster. (Copy attached).</i>

Qualification not fulfilled

<i>Sr. No.</i>	<i>Respondent No.</i>	<i>Name</i>	<i>Merit as per record</i>	<i>Merit as calculated by the</i>	<i>Explanation</i>

				selection committee in the combined merit list	
1	18	Jasvir Singh	-----	-----	Since the respondent apparently does not possess the requisite educational qualification, therefore, Show Cause notice has been issued on 22.01.2020. Jasvir Singh filed a CWP No.5675 of 2020 in the Hon'ble High Court. Stay granted on 02.03.2020. However, petitioner has been retired on 30.09.2020.
2	19	Gurmit Singh	-----	-----	Since the respondent apparently does not possess the requisite educational qualification and has since retired on 30.04.2019, therefore, Show Cause notice has been issued.

- With respect to respondent no.5, Sh. Sukhwinder Singh, it is submitted that the respondent had duly applied against the advertisement in the year 2006, but he did not mentioned his complete qualification in the form. As per record of the scrutiny file, he has done BPed as well as BPE. Certificate of both the qualifications are attached in the file and his merit was calculated by considering the qualification with higher marks. Hence, his merit became 66.826 and is rightly selected for reference, copy of file is attached as annexure A.
- With respect to respondent No.14 Bhavdeep Singh, it is submitted that said candidate has passed Master of Arts (Physical Education) as per record, also termed as MPed. Copy of file is attached as annexure A-1.
- Since the respondent No.38 Manjit Kaur had not applied against post

advertised in year 2006, as per record original file has already been submitted for reference in the Hon’ble Court. Therefore, Show Cause notice for termination of services was issued on 09.01.2014. However stay granted by Hon’ble Court in CWP No.3803 of 2014 on 28.02.2014. It is also pertinent to mention here that registration no.11672 has been allotted to Narinderjit Kaur who applied for the post of Lecturer.

- Apart from above state facts respondents no.9, 10, 13, 15, 17 and 49 are not working in the department and rest of respondents i.e. 5, 14, 16, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 34, 39, 41, 42, 43, 44, 45, 46, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70 and 71 are rightly selected as per official record.

Table 1

Sr. No.	COCP No./No. of petitioners	Name of petitioners	Merit of petitioners	Category	COCP in CWP/LPA
1	2340 of 2017 (1)	Talwinder Singh	64.258	General	CWP 7084 of 2015 decided with CWP No.7646 of 2010 on 30.05.2016
2	2584 of 2017 (3)	Resham Singh	60.918	SO(RO)	CWO 26549 of 2015 decided with CWP No.7646 of 2010 on 30.05.2016
		Balbir Singh	61.674	SO(RO)	
		Satpal Singh	57.29	ESM	
3	328 of 2019 (1)	Harjinder Singh	60.709	SC(RO)	CWP 25606 of 2015 decided with CWP No.7646 of 2010 on 30.05.2016
4	2701 of 2018 (3)	Ajit Singh	61.292	SC(RO)	CWP 25606 of 2015 decided with CWP No.7646 of 2010 on 30.05.2016
		Gurlal Singh	61.563	SC(RO)	
		Dilraj Singh	61.722	SC(RO)	
5	3921 of 2018 (6)	Amrik Singh	60.569	BC	In LPA 1030 of 2017 decided on
		Harjit Singh	61.423	SO (RO)	

		Ravinder Singh	64.208	General	06.08.2018
		Gurdeep Singh	64.532	General	
		Jagjit Singh	64.324	General	
		Harbhal Singh	60.099	BC	

- From the above stated table 1 it is made clear that all the petitioners in the COCP’s are selected in the revised combined merit list but couldn’t offer appointment order as per the facts explained in the synopsis of factual position.
- However, C.M. No.8330 of 2023 has been filed by Sh. Resham Singh in COCP No.2584 of 2017 where in quota of SC has been demanded by him. It is submitted that the Department has filled excess posts than the advertised post in pursuance of various Court Orders for which inquiry has been initiated that how these posts are filled in excess. The inquiry report has already been submitted in the Hon’ble Court vide order 01.02.2013 and observation of the Department on inquiry report is annexed herewith as annexure B. It is also pertinent to mention that his name does not figure in the combined revised merit list, but offer of appointment could not be given due to restrained order of 03.07.2012 in CWP No.12222 of 2012.

Table 2

Sr. No.	COCP No./No. of petitioners	Name of petitioners	Merit of petitioners	Category	COCP in CWP/LPA	Merit of last selected candidate of respective Category
6	3275 of 2018 (1)	Babli	62.5138	General	In LPA 1030 of 2017 decided on 06.08.2018.	General Category (63.95)
7	3930 of 2018 (1)	Gurminderjit Singh	53.1067	SC (RO)	CWP 15142 of 2014 with LPA 1030 of 2017 decided on 06.08.2018	SC (RO) 60.773
8	3931 of 2018 (1)	Jaspreet Kaur	62.5359	General	In LPA 1030 of 2017 decided on 06.08.2018.	General Category (63.95)

9	3932 of 2018 (1)	Manpreet Kaur	58.81	General	In LPA 1030 of 2017 decided on 06.08.2018	General Category (63.95)
10	4814 of 2018 (1)	Satwant Kaur	56.87	General	In LPA 1030 of 2017 decided on 06.08.2018	General Category (63.95)
11	4829 of 2018 (1)	Bhupinder Kaur	60.84	General	In LPA 1030 of 2017 decided on 06.08.2018	General Category (63.95)
12	9886 of 2018 (1)	Kuldeep Kaur	55.60	General	In LPA 1030 of 2017 decided on 06.08.2018	General Category (63.95)
13	11981 of 2018 (1)	Daljit Kaur	58.05	General	In LPA 1030 of 2017 decided on 06.08.2018	General Category (63.95)
14	3977 of 2018 (1)	Paramjit Kaur	Never applied for the post of PTI, applied for Lecturer post	Nil	In LPA 1030 of 2017 decided on 06.08.2018	Not Applied
15	11980 of 2018 (1)	Sarbjit Kaur	60.135	General	In LPA 1030 of 2017 decided on 06.08.2018	General Category (63.95)
16	2685 of 2019 (1)	Harpreet Kaur	62.30	General	In LPA 1030 of 2017 decided on 06.08.2018	General Category (63.95)

- In the table 2, COCP no. from Sr. No.6 to 16, all the petitioners have low merit than the last selected candidate in their respective category and their name does not figure in the selected list.

Table 3

Sr. No.	COCP No./No. of petitioners	Name of petitioners	Merit of petitioners	Category	COCP in CWP/LPA	Merit of last selected candidate of respective Category
17	3321 of 2018	Archna Sudha	-----	General	In CWP	-----

	(1)				22459 of 2012 decided vide order dated 01.05.2013 in terms of CWP No.12222 of 2012.	
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- With respect to the position for the table 3, it is submitted that petitioner filed CWP 22459 of 2012 which was decided vide order dated 01-05-2013 in terms of CWP No 12222 of 2012. In the meantime, inquiry was conducted in reference to some complaints regarding recruitment of PTIs against 849 posts and inquiry report was submitted on dated 17.10.2013. In the inquiry report it was mentioned that petitioner did not apply for the post of PTI as per C-DAC report. Registration no. 194 was allotted to Jyoti Bala who applied for the post of Lecturer. Petitioner was not issued appointment letter. COCP no 3321 of 2021has been filled. Detailed reply had been filed by State in the COCP and by upholding the Departmental stand Contempt was admitted vide order dated 26.11.2019. After that case was listed for hearing on 18.05.2023.”

13. On the other hand, Sh. Gurminder Singh, the learned Senior Counsel while representing respondent No.38 and 40 in the lead case, who are also petitioners in CWP-3803-2014, in support of his oral submissions, has filed a convenience note which reads as under:-

GROUNDS	
1.	Petitioner filled up her application form online and had mentioned the draft number in the application form. The printout of the online form was taken and same was countersigned by the Director of the authorized center. The said countersigned application form along with draft No.700838 for Rs.80 (General Category) issued by Punjab

	<i>National Bank was sent to the C-DAC, Mohali, through registered post. The Bank has given the certificate that draft has been issued by them on 26.10.2006 in favour of Director, C-DAC.</i>
2.	<i>That the draft sent by the petitioners along with the application form was collected by C-DAC, Mohali and got it credited in their bank account.</i> <i>The State Bank of Patiala i.e. the banker of the C-DAC, Mohali, has also issued a certificate that the draft no. 700838 dated 26.10.2006 stands credited in the account No. 55034442545 of C-DAC on 18.11.2006.</i> <i>The Certificate is appended as Annexure P-22 with C.M. No. 6125-CWP of 2016 (In CWP No. 3803 of 2014).</i>
3.	<i>That the petitioners were fulfilling all the eligibility qualifications in the year 2006 itself, therefore there was no occasion for the petitioners to prepare fake documents for securing appointment.</i> <i>Once the petitioners fulfill the eligibility qualifications for the post in question, in that case the writ of QUO WARRANTO would not be maintainable against the petitioners.</i>
4.	<i>The petitioners also appeared for scrutiny, wherein all her original documents were verified and the original documents were even retained. The respondent even verified the registration number of the petitioners, no objection was ever raised by the scrutiny officer at that time.</i>
5.	<i>That on the complaint filed by the petitioners in Satish Kumar case, an FIR was registered against the petitioners. To enquire into the allegation, Special Investigation Team (SIT) was constituted by SSP, Mohali to enquire into the allegations of forgery and cheating. The petitioners presented the entire material before the SIT and the SIT after conducting the detail investigation did not find any substance in the allegations and the petitioners were not put on trial and were placed in Column No.2 of report under Section 173 Cr.P.C.</i>
6.	<i>That this Hon'ble Court vide order dated 15.12.2016 directed the official respondents to submit a status report in respect of the status of candidates after receipt of the objections/justifications. The status report dated 08.05.2017 was filed before this Hon'ble Court on 10.05.2017 which is available at Pg. 685 of the paper book. The name of the present petitioners has not been mentioned in the status report. Once the state government admits that the petitioners had applied in pursuance of the advertisement, then there is no question of terminating the services of the petitioners. Copy of the same is appended herewith as Annexure A-1.</i> <i>The government is taking opposite stands. In written statement it has been stated that the petitioners has not applied in pursuance of the advertisement, whereas in the status report they say petitioners had applied.</i>

7.	<i>State government has not stated anything about the credit of draft of Rs.80/- (made by the petitioners) in the account of the C-DAC Mohali. The crucial piece of evidence is being ignored. The Department has not examined this aspect and straightway saying that documents are forged.</i>
8.	<i>In year 2019, an application under Section 319 Cr.P.C was also moved by the prosecution to summon the petitioners as additional accused. The said application was dismissed on 04.05.2019, with the observation that no ground is made out for summoning the petitioners as additional accused and it was further observed that the application was without merit and was filed to delay the trial. Copy of the order dated 04.05.2019 is appended herewith as Annexure A-2.</i>
9.	<i>That the present case is classic example whereby the lapse on the part of the official respondents (in misplacing the record) is sought to be shifted upon the candidates and they are being made scapegoat and are being put to task to justify their application forms and are being treated like criminals and allegations are being leveled to the effect that they never applied online in 2006 and have forged the records in 2011, for securing their appointment to the post of DPI.</i> <i>The state has failed to appreciate that how person can make a draft of exact amount of Rs 80/- (General Category) in year 2006 and credit the same in the account of C-DAC, Mohali (Outsource agency) in the year 2006 itself, to be used during counselling in year 2011.</i> <i>The answering respondent was fully eligible for the post of PTI, in year 2006 itself and is quite high in merit, then the last selected candidate in General Category, so therefore there was occasion for the answering respondent to forge the documents for securing the appointment.</i> <i>Candidates, who have failed to secure appointment, are using the fault of the state government, to say that entire selection process was rigged. The state also to save its skin, has only named the Chairman as accused whereas the selection committee consisted to 4 members (excluding chairman). Had the entire process vitiated, then even other members would have been named as accused as the merit was prepared by the committee consisting of 5 members.</i> <i>The state has lost the records and now they cannot be allowed to take the benefit of their own wrong and shift the onus particularly when the petitioners have already put in more than 12 years of service, with the state.</i>

14. Similarly, the learned counsel representing the respondent No.34, 61, 62 and 67 has submitted a synopsis while contending as under:-

“Now the petitioners sought information under RTI

regarding details of candidates shown in merit list dated 28.06.2012 and since answering respondents had not applied or participated in the selection process in 2012, there was no question of any record of their fresh application. The petitioner have not sought any information regarding selection of year 2006/2007, when the answering respondents were selected. This petition has been filed under incorrect and false notion that answering respondents were selected in 2012 without applying for the post whereas fact remains that answering respondents are in service since 2006/2007 and now they have completed more than 16 years of service.

5. It is thus clear that the petitioners have tried to project that answering respondents have been selected and given appointment on the basis of a letter to merit list prepared on 28.06.2012 which is nothing but an attempt to mislead this Hon'ble Court only to cleverly justify the delay of about eight years in approaching this Hon'ble Court.

6. The selection was neither challenged nor set aside in CWP No.451 of 2008. The alleged FIR has no connection with answering respondents."

15. Similarly, the learned counsel representing respondent No.66 and 68 while filing the synopsis has contended that the selection of respondent No.66 and 68 was made pursuant to the recruitment notice issued in July 2007 for 260 posts of PTI teachers and, therefore, the writ petition qua respondent No.66 and 68 is liable to be dismissed.

16. Ms. Alka Chatrath, Advocate, while appearing for the petitioner in CWP-475-2020 has also filed a synopsis contending that the petitioner being higher in merit and having applied for the post under registration No.194 along with a fee of Rs.80/- by way of demand draft, is entitled to be selected, as a person having the merit lower than her i.e. 56.49% marks has been appointed. She submits that the respondent refused to supply a certified copy of the online application form of the said Ms. Jyoti Bala, who is stated to have been assigned registration No.194.

17. Sh. P.K.S. Phoolka, learned counsel representing the applicants has also filed a synopsis contending that applicants have wrongly not been selected and persons with lower merit have been appointed in their place.

18. Sh. Vishal Sodhi, Advocate, has also filed a synopsis in CWP-16536-2017, CWP-1049-2017 and CWP-2016-2017.

19. On the other hand, C-DAC has also filed a synopsis explaining the procedure of the submitted application, which is extracted as under:-

“GENERAL:

*a. The candidates were required to apply only **ON-LINE** and not otherwise, as per advertisement given by Education Department Punjab.*

b. Numerous Cyber Cafe were authorised to extend support to candidates for filling and submission of their applications on-line. Each such Cyber Cafe was allotted a code number which was also shown in the application.

c. When the candidate used to fill up application form on-line, a temporary Registration Number was allotted to such candidates.

d. Final registration number was allotted after successful submission of on-line application by the candidate, which number may not be the same as temporary registration number as there was possibility that several candidates were filling up their on line application forms simultaneously and the candidate whose application was successfully submitted first, was allotted final registration number. It is possible that the candidate takes a printout/screen shot of the application, before final submission i.e without pressing the SUBMIT button. Such candidates cannot be considered due to unsuccessful registration.

e. When the candidate submits the on-line application by pressing 'Submit' button, the "Submit" button disappears and the filled-up data in the application automatically converts into a printable form which can be printed by the candidate.

f. The candidates who have not pressed the Submit button and taken printout of the screen before final submission

cannot claim that they have successfully submitted online application. A specimen of the format in respect of candidates who had successfully applied is attached in the case of Registration Numbers 7180 to 7230 in book let shape for kind perusal of this Hon'ble Court.

g. Bank Drafts mentioned in applications were sent by candidates to C-DAC through post. All such drafts were deposited in Bank in lots without matching the same with on line applications received.

**CWP WISE BRIEF POSITION IS AS SUBMITTED
AS UNDER:**

1. CWP No. 15331 of 2014 titled Rashpal Kaur Vs State of Punjab and others. (C-DAC, Mohali is Respondent No. 4)

a. Written statement filed by R/4 on 29.07.2022.

b. Father's name of the petitioner in CWP (Sh. Jagdeep Singh) does not match with the documents annexed with the CWP (P/3, P/8, P/9- Baldev Singh) as is submitted in WS.

2. CWP No. 1066 of 2015 titled Gurpreet Singh Vs State of Punjab and others. (C-DAC, Mohali is Respondent No. 4)

a. Written statement filed by R/4 on 23.09.2019.

b. No record of receipt of on-line application with C-DAC.

3. CWP No. 475 of 2020 titled Archana Sudha Vs State of Punjab and others. (C-DAC, Mohali is Respondent No. 3)

a. Written statement filed by R/3 on 06.02.2020

b. Additional Affidavit filed by R/3 on 08.12.2022.

c. No record of receipt of on -line application with C-DAC.

4. CWP No. 2910 of 2020 titled Ritu Vs State of Punjab and others. (C-DAC, Mohali is Respondent No. 4)

a. Written statement filed by R/4 on 29.07.2022.

5. CWP No.3090 of 2020 titled Kamaljit Singh Vs. State of Punjab and others. (C-DAC, Mohali is respondent No.4)

a. Written statement filed by R/4 on 29.07.2022.

b. No record of receipt of on-line application with C-DAC.”

20. Now, the Bench proceeds to analyze and evaluate the arguments put forth by the learned counsel representing the parties.

21. At the outset, it must be noticed that in CWP-18679-2013, respondents No.4 to 71 are the selected and appointed candidates. From the report submitted by the State, it is evident that the selection committee constituted in the year 2012 after the judgment passed in **Manjit Singh's case (supra)**, is stated to have committed large-scale illegalities and irregularities while recommending the names of the selected candidates. It has been brought to the notice of the Court that the Chairman and the members of the select committee are facing prosecution in a pending criminal case. While highlighting that, the State has already issued appointments to 1137 candidates against the advertised 849 posts and as per 2018 Rules and there is no provision in the 2018 Rules for appointment to the post of PTIs, hence, learned counsel representing the State submits that a direction should not be issued to appoint the petitioners.

22. On the other hand, Sh. Gurminder Singh, the learned Senior Counsel while referring to the judgment passed by the Single Bench on 30.05.2016, which was slightly modified by the Division Bench on 25.08.2017 in **Ajaib Singh's case (supra)**, submits that the selection of respondents No.38 and 40, who are also the petitioners in CWP-3803-2014

has already been upheld, hence, the writ petition qua them should be dismissed. It has also been contended that as per the information supplied by the Bank, the drafts of Rs. 80/- prepared by respondent No.38 and 40 were duly credited to the account of C-DAC, hence, it would not be appropriate to hold that the petitioners did not apply to the said post.

23. Similarly, Ms. Alka Chatrath while appearing for Ms. Archana Sudha in CWP-475-2020, has submitted that the petitioner who had applied for the said post, being higher in merit, deserved to be appointed. In fact as per the Government's affidavit, there are a significantly large number of such candidates who are higher in merit.

24. The Bench first takes up CWP-3803-2014. This writ petition has been filed by Ms. Manjit Kaur and Ms. Kiranjit Kaur, who are also respondents No.38 and 40 in the lead case (**CWP-18679-2013, titled as Satish Kumar and others Vs. State of Punjab and others**). There is no substance in the argument of the learned counsel that the matter has already been decided in the previous round in the judgment of **Rajwansh Kaur's case (supra)** because as already noticed in the aforesaid writ petition, the issues in question were different. The doctrine of constructive *res judicata* is applicable to the cases where a matter which might and ought to have been made a ground of claim or defence in a former case, but a party ignores it, then the issue shall be deemed to have been a matter directly and substantially in issue in the case at hand. When it is apparent that the issues decided in the previous writ petition were different from the issues arising in the matter at hand, the doctrine of constructive *res judicata* would not be attracted.

25. The next argument of the learned counsel is with reference to the registration numbers issued to respondent No.38 & 40 and credit of draft of Rs.80/- each in the account of C-DAC. It may be noted here that the C-DAC has explained that these persons visited one of the nominated cyber cafes, however, failed to press the 'Submit' button, so as to complete the process of submitting the application. Moreover, registration numbers 11672 and 245 have been allotted to different candidates as explained by the State. Consequently, there is no substance in CWP-3803-2014.

26. A separate synopsis has been filed by Sh. Jatinderpal Singh, Advocate from the office of Sh. Gurminder Singh, Senior Advocate, counsel for respondents No.4, 6, 7, 8 and 12. In the synopsis, the following submissions have been made:-

“1. That it is humbly submitted that the petitioners file the present writ petition seeking the quashing of selection of the answering respondents on the ground that their selection is based on the wrong merit calculated by the Selection agency. It is pertinent to mention herein that during the pendency of the writ petition, the services of the answering respondents were terminated on the same ground as raised by the petitioners in the present writ petition vide orders dated 15.07.2014. Therefore, in view of the termination order dated 15.07.2014, the claim of the petitioners qua the answering respondents is rendered infructuous.

2. That it humbly submitted that the termination orders were challenged by the respondent no. 4 and respondent no. 6 by filing CWP No. 15330 of 2014 & CWP No.15293 of 2014 respectively. Both the writ petitions were disposed by this Hon'ble Court along with CWP No. 7646 of 2010 and connected cases vide judgment dated 30.05.2016 (Annexure A-1), wherein the services of all the appointed candidates were protected by this Hon'ble Court. Against the judgment dated 30.05.2016, LPA No. 1248 of 2016 and other appeals were filed, which was disposed off vide judgment dated 25.08.2017 (Annexure A-2), wherein the Division Bench of this Hon'ble Court, protected services of all the

candidates who were appointed under erroneous circumstances. The relevant part of the judgment is re-produced herein: -

"On similar grounds those who gained appointment, even though under erroneous situation emerging from the judgment of the learned Single Judge and subsequent re-casting of the merit, their services would need to be protected considering that these employees have been in employment for sufficiently long time by now. Upsetting the cart at this juncture would be a travesty and involve serious consequences of a human tragedy when these persons would be well entrenched in their service and travelled a long way into their life."

The answering respondents are covered by the afore-said findings of the Hon'ble Division Bench and their services were protected by this Hon'ble Court.

Moreover in case of the respondent no. 6, LPA No. 284 of 2017 filed against judgment dated 30.05.2016 passed in CWP No. 15293 of 2014. The afore-said LPA was disposed of in same terms of afore-said decision dated 25.08.2017 passed in LA No. 1248 of 2016. Therefore case qua his appointment on the basis of wrong calculation of merit, has already been adjudicated by this Hon'ble Court and the same cannot be reopened at this stage.

In case of respondent no. 4, LPA No. 2437 of 2016 against judgment dated 30.05.2016 passed in CWP No. 15330 of 2014. The afore-said LPA is still pending for 05.07.2023.

Therefore it is humbly submitted that the present petition qua the selection and appointment of respondent no. 4 & 6 in the present writ petition is rendered infructuous.

3. That it is further submitted that in the present case, at the first instance, appointments of candidates who were having the qualifications of CP.Ed were made in the year 2006 and thereafter, the appointments of candidate having higher qualifications were made in the year 2012. It is humbly submitted that all the answering respondents are higher than the candidates, who were appointed in the year 2006. The comparative merit of the answering respondents and the last candidate who were appointed in the year 2006 is re-produced herein:-

Sr. No.	Name of Candidate	Category	Marks obtained by the last selected	Marks obtained by the
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			<i>candidates in the respective categories in the year 2006</i>	<i>answering respondents.</i>
1.	Jasbir Kaur	General Female	56.42	57.44
2.	Liveline Singh	General Male	58.91	63.70
3.	Kanwaldeep Singh	General Male	58.91	55.76
4.	Rashpal Kaur	General Female	56.42	61.94
5.	Gurwinider Singh	SC (R & O) Male	47.81	58.45

Perusal of the afore-said chart reveal that the answering respondents are having higher marks than the candidates who were appointed in the year 2006 and the services of such candidates have been protected by this Hon'ble Court in judgments mentioned afore-said. Therefore the answering respondents services are liable to be protected as person lower in merit are working in the department.

*4. That it is further submitted that as per the advertisement, the merit is to be calculated by the selection agency and it was not to be calculated by the candidates. If the selection agency calculated the merit wrongly, then the candidate cannot be made suffer on account of fault of the selection agency especially in view of the fact that the answering respondents are working since last 11 years. It is further submitted that there is not mis-representation on the part of the answering respondents, therefore their services are liable to be protected in view of law laid down by the Hon'ble Supreme Court of India **Vikas Partap versus State of Chattisgarh, 2013 (14) SCC 494 (Copy annexed)**. Therefore the services of answering respondents are liable to be protected in view of afore-said judgment of this Hon'ble Court.*

5. That so far as the appointment of the petitioners are concerned, it is humbly submitted that they cannot be offered appointment at this stage as the Division Bench of this Hon'ble Court has already decided the said issue against them in Ajaib Singh Judgment (Supra), wherein it has been categorically held that no further appointments can be made in pursuance to the 2006 selection.

In view of the afore-said submissions, it is respectfully submitted that the present writ petition qua the answering respondents be dismissed with costs.”

27. This Court has carefully considered the arguments extracted above. This Court has also carefully read the judgment passed by the learned Single Judge on 30.05.2016 while deciding the various cases including the lead case in **Rajwansh Kaur's case (supra)**. It is evident that the issue with regard to the calculation of wrong marks by the selection committee in the year 2012 was not pressed before the Court nor considered and never decided. As already noticed, the learned Single Judge considered only four categories of cases. First was with respect to the candidates who were selected and appointed in the selection process initiated in the year 2006. Their appointments were protected because they were appointed as per the recruitment rules as well as the recruitment notice. The second category was with respect to those candidates who were appointed pursuant to the judgment passed by the Full Bench in **Manjit Singh's case (supra)** on the basis of merit. Though, these respondents were appointed pursuant to the **Manjit Singh's case (supra)**, however, their cases were neither pressed before the learned Single Judge nor considered. The judgment passed in **Rajwansh Kaur's case (supra)** cannot come to the rescue of the answering respondents in a manner sought to be projected by the respondents. The benefit of the judgment passed by the Court is available only if the matter in issue is considered and decided by the Bench. The writ petition filed by the answering respondents has never been allowed by the Court. The third category is with respect to 119 candidates who were seeking appointment. Whereas, the fourth category belongs to those candidates who did not challenge the recruitment notice or the selection process, though, they were more qualified. In the considered view of the Court, the observations made

by the Hon'ble Division Bench as highlighted by the learned counsel representing the answering respondents will have to be read in the context the judgment was delivered. A part of a sentence in the judgment passed by the Division Bench cannot be read in isolation of the entire context in which the judgment has been written. Respondent No.4, 6, 7, 8 and 12 have been appointed as the selection committee manipulated the record, which was never made the subject matter of analysis before the Court. In fact, these respondents have gained appointment by playing fraud in connivance with the members of the select committee, hence, they are not entitled to protection as prayed for by the learned counsel.

28. As regards argument No.3, it may be noted that the candidates who were selected in the year 2006 stand protected by the judgment passed in **Rajwansh Kaur's case (supra)**, hence, the answering respondents cannot claim right to continue while making comparison with the candidates selected in the year 2006. In the peculiar facts of the case, the appointments made in the year 2006 were protected by the Single Bench as well as Division Bench and there is no challenge to the same, hence, this Court has refused to enter into the arena.

29. The last argument of Sh. Jatinder Singh Gill, Advocate, is with respect to the fact that these respondents are continuously working for the last 11 years. It may be noted here that out of these 11 years, these respondents have continued in service on account of interim protection granted by the High Court for the last 9 years. The show cause notices were issued to these respondents in the year 2014, whereas, they were appointed in the year 2012, hence, the judgment passed in **Vikas Pratap Singh Vs.**

State of Chattisgarh, 2013 (14) SCC 494, which is in the peculiar facts of the case.

30. Similar is the position in CWP-475-2020 (Archana Sudha). She is also respondent No.36 in the lead case {Satish Kumar's case (supra)}. It has been submitted by the State that registration No.194 was allotted to Ms. Jyoti Bala and not the petitioner. Hence, on parity of reasons, there is no substance in CWP-475-2020.

31. This Bench now proceeds to analyze the arguments of Sh. Puneet Jindal, learned Senior counsel in Satish Kumar's case (supra). The first argument is with respect to respondents No.4, 6 to 12, 15 and 16. As per the tabulated compilation submitted by the State, the actual merit of Ms. Jasbir Kaur is 57.44, whereas, the select committee has manipulated the selection by wrongly calculating it at 74.609, hence, Ms. Jasbir Kaur who was appointed in the year 2012 but was issued show cause notice in the year 2014 and continues to serve the department because of interim protection granted in CWP-15330-2014, does not deserve to continue in the job. The argument of the learned counsel for respondent-Jasbir Kaur that she has already worked for nearly 11 years, has no substance because out of those 11 years, she continued on account of the protection of interim order passed by the Court for the last 9 years. Similar is the position of Ms. Livleen Kaur (respondent No.6). Her actual percentage of marks comes to 63.5 and not 66.72222. She is also continuing on account of interim protection granted in CWP-15293-2014. Similarly, respondent No.7 Mr. Kamaljit Singh @ Kanwaldeep Singh has actual merit of 55.76% marks, whereas, the selection committee manipulated the select list by incorrectly calculating it as

65.31556% marks. This respondent also continues in job because of interim protection granted in CWP-3090-2020. As the petitioner Sh. Kamaljit Singh @ Kanwaldeep Singh's actual marks are lower than the cut off of the last selected candidate, hence, finding no merit, CWP-3090-2020 shall stand dismissed.

32. The case of respondent No.8-Ms. Rashpal Kaur is also similar. She is continuing in service on account of the interim protection granted on 04.08.2014 in CWP-15331-2014. Hence, for the parity of reasons, CWP-15331-2014 filed by Ms. Rashpal Kaur shall stand dismissed.

33. On perusal of the paperbook, it is evident that respondent No.9 and 10 (Mr. Manjinder Singh and Mr. Prabhjit Singh) were never issued any appointment order by the department.

34. The case of respondent No.11 & 12-Mr. Gurvinder Singh and Ms. Ritu daughter of Sh. Sohan Lal is also similar. Their total marks are 58.45% and 52.48%, which is lower than the merit of 63.9% of the last selected candidate in the general category. They are also continuing in service on account of the interim protection granted in CWP-15310-2014 and CWP-2910-2020. Hence, their writ petitions are also dismissed.

35. The next argument of the learned counsel is with respect to the respondent No.5-Ms. Sukhwinder Kaur. The learned counsel while referring to annexure P-11 has submitted that her merit percentage comes to 60.977% and not 66.82%. The State of Punjab while filing the written synopsis has explained that there is a printing error in annexure P-11 and her marks come to 66.8266% as she gets 33.6666% marks for 10+2, whereas, for the

qualification of B.P.Ed., she gets 33.1600% marks. A photocopy of her file has been produced, perusal whereof shows that her merit has been correctly calculated, hence, the challenge to the selection of respondent No.5 is without substance.

36. Mr. Sardar Singh S/o Jagir Singh and Sarabjit Kaur are respondent No.15 and 16. Respondent No.15-Mr. Sardar Singh has already been dismissed by the department on 15.07.2014, whereas, the selection of respondent No.16-Ms. Sarabjit Kaur has been defended on the ground that though her actual merit as verified by the department on the basis of the record comes to 62.96%, however, since the last selected candidate in SC (R&O) category in the revised combined merit list is 60.07%, hence, she is entitled to be retained in service. Consequently, the writ petition qua respondent No.16 is dismissed. Mr. Sardar Singh-respondent No.15 has also filed CWP-25699-2014, which is also dismissed for the reasons recorded above.

37. Respondent No.13-Ms. Gurjit Kaur is stated to have been dismissed from service by the department itself. Similarly, respondent No.17 has never been issued any appointment letter. Respondent No.18 (writ petitioner in CWP-5675-2022) has been issued show cause notice. The State claims that he does not possession requisite qualification. Hence, the official respondents will proceed to decide his case after grant of opportunity of hearing. The separate writ petition filed by Sh. Jasvir Singh is accordingly disposed of.

38. Respondent No.14-Mr. Bhavdeep Singh is stated to be holding M.A. degree Consequently, he is not qualified to be appointed to the said

post. Whereas, respondent No.14 while filing the written statement has submitted that he is M.A. (Physical Education), which was on 13.08.2018 declared equivalent to M.P.Ed. by the Division Bench in CWP-19-2007, titled as Lakhbir Singh Vs. State of Punjab and others. The selection committee has treated the qualification as equivalent to M.P.Ed. In the exercise of judicial review, this court is not expected to sit in appeal against the aforesaid decision of the select committee.

39. It may be noted here that respondents No.18 and 19 do not possess the requisite educational qualification. In such circumstances, it would not be appropriate to direct the State to continue to retain the respondent No.18 and 19. The learned counsel representing the petitioner in CWP-5675-2020 filed by respondent No.18-Mr. Jasvir Singh has failed to draw the attention of the Court to any material, which may prove that these petitioners possess the requisite qualifications required for the post.

40. As regards the next argument, respondent No.19 is Mr. Gurmit Singh. The State has also admitted that this respondent does not fulfil the requisite educational qualification as required in the recruitment notice. Once respondent No.19 does not fulfil the requisite educational qualification, hence, his appointment is not sustainable.

41. As regards the next argument with respect to respondents No.20 to 29, 32, 34, 39, 41 to 47, 50, 52 to 57, 61 & 62, it may be noted that State of Punjab while filing the synopsis has again defended the selection of the aforesaid respondents on the basis of the record. The State has claimed that these respondents applied for the post. The petitioners allegation is that application of respondents to the said post is strongly contested by the State

of Punjab. Qua these respondents, the writ petition involves the disputed questions of fact, hence, the petitioners, if so advised, may avail alternative remedy.

42. The next argument of the learned is with respect to the respondents No.30, 31, 33, 35, 36 to 38 & 40. Respondent No.30 is Mr. Gurpreet Singh. It has been found that he did not submit any effective application. He is continuing in service on account of the interim protection granted in CWP-1066-2015. The learned counsel representing the petitioner in Gurpreet Singh's case has not drawn the attention of the Court to the material which proves that Mr. Gurpreet Singh submitted the application. The same is the case of Ms. Rajinder Pal Kaur, who applied in the year 2011. She deposited the fee in the year 2011, hence, she was not entitled to be considered and appointed pursuant to the recruitment notice issued on 23.10.2006. Consequently, her services are liable to be dispensed with. Similarly, Ms. Asha Rani (respondent No.37 and writ petitioner No.1 in CWP-5641-2014) did not apply against posts advertised in the year 2006. The State Government while filing the affidavit has clarified that a perusal of the original form attached in the scrutiny file, Rs.250/- is depicted to be the amount of the fee deposited, which was not applicable to the recruitment of 2006 of 849 PTIs. The learned counsel representing Ms. Asha Rani & Ms. Rajinder Pal Kaur failed to draw the attention of the Court to the evidence to prove that these petitioners in CWP-5641-2014 applied in response to the recruitment notice issued on 23.10.2006. Consequently, the interim order passed in CWP-5641-2014, is hereby vacated while dismissing CWP-5641-2014. The learned counsel representing the petitioner failed to

draw the attention of the Court to any significant material to establish that she is entitled to continue in service.

43. Respondent No.33 is Mr. Jatinder Singh. He also did not apply against the post advertised in the year 2006. He continues in service on account of the interim protection granted in CWP-4128-2014. For the parity of reasons with the case of Rajinder Pal Kaur's case, the writ petition filed by the Mr. Jatinder Singh is also dismissed. Similar is the case of respondent No.35-Ms. Gagandeep Kaur. She did not apply for the post advertised in the year 2006. She continues in service on account of the interim protection granted in CWP-543-2015, which is vacated while dismissing the writ petition for the reasons noted above.

44. Respondent No.36-Ms. Archana Sudha has not been issued an appointment letter rather she has filed a writ petition, which has already been dismissed. Case of respondent No.37-Ms. Asha Rani is similar to the case of respondent No.30, 31, 33. For the parity of reasons, her writ petition is dismissed and her appointment is quashed. A detailed discussion with respect to respondent No.38-Ms. Manjit Kaur and respondent No.39-Ms. Kiranjit Kaur has already been made. Moreover, these respondents have never submitted their complete applications, hence, their writ petition is dismissed, whereas, in the lead case the writ petition filed by Sh. Satish Kumar qua respondent No.38 & 39 is allowed.

45. In the written arguments, the petitioners themselves admit that respondent No.63 and 70 were selected against the recruitment notice of 2007, wherein 260 backlog vacancies for the reserved categories were filled

up. In this regard, no further submissions have been made. Consequently,

writ petition qua respondents No.63 and 70 is dismissed.

46. As regards the last argument, it may be noted that the cases of respondent No.5, 14, 20 to 29, 32, 34, 39, 41 to 47, 50, 52 to 57, 61 and 62 have already been discussed and need no repetition.

47. In CWP-4128-2014 (Jatinder Singh), the prayer is to issue directions to appoint him as PTI. As per the written statement filed by the State of Punjab, the petitioner Jatinder Singh did not apply for the post of PTI but he applied for the post of Master. Hence, there is no substance in the writ petition filed by Mr. Jatinder Singh.

48. In CWP-16536-2014 (Raj Kumar), the petitioner seeks issuance of a writ in the nature of certiorari to quash the selection of respondent No.4 to 16 with a writ of mandamus to appoint him. As per the stand of the State, the petitioner did not attend the counselling held from 25.05.2011 to 26.05.2011, hence, there is no substance in the writ petition.

49. CWP-2016-2017 has been filed by 8 petitioners. It is the stand of the State of Punjab that their cases are similar to category III as carved out in **Rajwansh Kaur's case (supra)**, however, at this stage, it would not be appropriate to issue directions particularly when there is no positive direction in favour of the petitioners to appoint them to the post of PTI.

50. CWP-10497-2014 has been filed by as many as 10 petitioners. As per the stand of the State of Punjab, these petitioners could not make a place in the revised result, which was prepared according to the directions of the Court in **Manjit Singh's case (supra)**, hence, no writ can be issued.

51. In CWP-11606-2014 (Rajveer Kaur and others Vs. State of

Punjab and others), as many as 4 petitioners, who belong to the general category (female) pray for the issuance of a writ of mandamus. Now, at this stage, after a passage of nearly 17 years, it is not considered appropriate to issue directions to appoint the petitioners.

52. There is another aspect to the matter. After the judgment was passed by the Division Bench while modifying the judgment in **Rajwansh Kaur's case (supra)**, **Narender Saini's case (supra)**, a few female candidates filed CWP-20464-2016 seeking direction for implementation of the judgment passed in **Neelam Rani Vs. State of Punjab and others, CWP-12275-2000**, which was decided on 08.01.2010. This judgment held that there can be reservation for 'women' but no such reservation is permissible under the Constitution for 'male'. Resultantly, 50% of the posts would go to women and remaining 50% are to be filled up strictly on merits, irrespective of the gender of the candidates. The judgment in **Neelam Rani's case (supra)** was made applicable with prospective effect. A Letter Patent Appeal No.1030-2017 against an interim order passed by the High Court in **Narender Saini's case (supra)**, which was disposed of on 06.10.2018 and it directed appointment of the candidates amongst females. Ultimately, this writ petition was also disposed of. Moreover, the judgment passed in **Neelam Rani's case (supra)** has been upheld by the Supreme Court in **Ashu Chopra and others Vs. State of Punjab and others, Civil Appeal No.4501 and 4502 of 2021, decided on 15.03.2023**. The Supreme Court has held that the findings arrived at by the Division Bench in **Neelam Rani's case (supra)** does not required interference and the finding of the High Court on question of law is upheld. Now, in these circumstances, it would not be appropriate to

issue direction to appoint 119 candidates. The State has disclosed that pursuant to the orders of the High Court in *Narender Saini's case (supra)*, the State issued appointment letters to 73 female candidates but only 61 female candidates actually joined. It has also been brought to the notice of the Court that originally the list of 119 candidates consisting of male candidates. In view of the judgment passed in *Ashu Chopra's case (supra)*, no direction can be issued to issue appointment letters to 119 candidates.

53. Similarly, for the parity of reasons, various writ petitions filed by the petitioners to seek appointment are also dismissed without issuing direction to the State to issue the appointment letters, particularly after the passage of nearly 17 years.

54. The last issue is with regard to the relief to be granted to the petitioners. It may be noted here that a recruitment notice was issued in the year 2006. Thus, nearly 17 years have elapsed. On account of the flurry of litigation and various developments that took place, the respondent-State has already appointed 1137 candidates against the recruitment notice for appointing 849 PTIs. Moreover, since 2018, there is no provision for the post of PTIs. In such circumstances, even if certain persons are liable to be removed, still no direction can be issued for the appointment of the petitioners in the cumulative facts and circumstances of the present case.

55. This Bench now proceeds to examine various contempt petitions, which have been heard along with this batch of writ petitions.

56. In COCP-2340-2017, COCP-2584-2017, COCP-328-2019, COCP-2701-2018 & COCP-3921-2018, the State has expressed helplessness

to offer an appointment, though, these petitioners have been selected in the revised combined merit list. Now, the question which arises for consideration is whether these 14 petitioners in as many as 5 contempt petitions, who are higher in merit than the last selected candidate, deserve to be appointed or not. As already noticed, even though the State has already appointed more candidates than the posts advertised, however, in view of complicated facts arising from various rounds of litigation, at this stage after a passage of 17 years the petitioners do not deserve to be appointed as this Court has already ordered the removal of certain PTIs while deciding the writ petitions.

57. In COCP-3275-2018, COCP-3930-2018, COCP-3913-2018, COCP-3932-2018, COCP-4814-2018, COCP-4829-2018, COCP-9886 of 2018, COCP-11981-2018, COCP-11980-2018 & COCP-2685-2019, the marks of the petitioners are less than the cut-off marks for the general category candidates.

58. In COCP-3930-2018, the candidate applied under SC (R&O) category but the last candidate who was selected has scored 60.773% marks, whereas, the petitioner has scored marks are 53.1067% only.

59. In COCP-3977-2018, the petitioner never applied for the post of PTI and she applied for the post of lecturer, hence, she does not deserve any relief.

60. COCP-3321-2018 has been filed by Ms. Archana Sudha, who is a petitioner in CWP-22459-2012, which has been dismissed. Hence, her contempt petition is also liable to be dismissed.

61. With these observations, all the writ petitions and contempt petitions are disposed of.

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

10th July, 2023

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

Sr. No.	Case No.	Petitioner	Respondent
1.	COCP - 3930 - 2018	GURMINDERJIT SINGH	SUKHJEET PAL SINGH
2.	COCP - 3321 - 2018	ARCHANA SUDHA	SHRI KRISHAN KUMAR, IAS & ANR
3.	COCP - 11980 - 2018	SARABJEET KAUR	SUKHJEET PAL SINGH
4.	COCP - 11981 - 2018	DALJIT KAUR	SUKHJEET PAL SINGH
5.	COCP - 4829 - 2018	BHUPINDER KAUR	SUKHJEET PAL SINGH
6.	COCP - 3977 - 2018	PARMJIT KAUR	SHRI KRISHAN KUMAR & ANOTHER
7.	COCP - 2340 - 2017	TALWINDER SINGH	PARAMJIT SINGH
8.	COCP - 3921 - 2018	AMRIK SINGH & OTHERS	KRISHAN KUMAR & ANOTHER
9.	CWP - 18679 - 2013	SATISH KUMAR AND ORS	STATE OF PUNJAB AND ORS
10.	COCP - 2701 - 2018	AJIT SINGH & OTHERS	KRISHAN KUMAR & ANR
11.	COCP - 9886 - 2018	KULDEEP KAUR	SUKHJEET PAL SINGH
12.	COCP - 2584 - 2017	RESHAM SINGH AND ORS.	KRISHAN KUMAR AND ANR
13.	COCP - 2685 - 2019	HARPREET	SUKHJEET PAL SINGH
14.	COCP - 4814 - 2018	SATWANT KAUR	SUKHJEET PAL

			SINGH
15.	COCp - 3275 - 2018	BABLI	SUKHJEET PAL SINGH
16.	COCp - 3932 - 2018	MANPREET KAUR	SUKHJEET PAL SINGH
17.	COCp - 3931 - 2018	JASPREET KAUR	SUKHJEET PAL SINGH
18.	COCp - 328 - 2019	HARJINDER SINGH	KRISHAN KUMAR IAS AND ORS
19.	CWP - 1066 - 2015	GURPREET SINGH	STATE OF PUNJAB & ORS
20.	CWP - 18538 - 2014	BALKAR SINGH AND ORS	STATE OF PUNJAB & ORS
21.	CWP - 27371 - 2022	MANSROOP SINGH	STATE OF PUNJAB AND OTHERS
22.	CWP - 10497 - 2014	SUKHDEV SINGH & ORS	STATE OF PUNJAB & ORS
23.	CWP - 19452 - 2014	KULDEEP SINGH	STATE OF PUNJAB AND OTHERS
24.	CWP - 22355 - 2015	AMANDEEP SINGH AND ORS	STATE OF PUNJAB AND ORS
25.	CWP - 24859 - 2014	BALTEJ SINGH & ORS	STATE OF PUNJAB & ORS
26.	CWP - 1087 - 2014	RAJESH KUMAR	STATE OF PUNJAB AND ORS
27.	CWP - 11606 - 2014	RAJVIR KAUR & ORS	STATE OF PUNJAB & ANR
28.	CWP - 15331 - 2014	RASHPAL KAUR	STATE OF PUNJAB & ORS
29.	CWP - 18520 - 2014	GURPAL SINGH & ORS	STATE OF PUNJAB & ORS
30.	CWP - 15699 - 2014	SARDAR SINGH	STATE OF PUNJAB AND ORS
31.	CWP - 25256 - 2014	HARDEEP SINGH & ORS	STATE OF PUNJAB & ORS
32.	CWP - 27300 - 2015	JASWINDER SINGH	STATE OF PUNJAB AND ORS
33.	CWP - 1018 - 2017	CHAINCHAL SINGH	STATE OF

		AND OTHERS	PUNJAB AND OTHERS
34.	CWP - 2016 - 2017	LAKHWINDERJIT SINGH AND ORS.	STATE OF PUNJAB AND ORS.
35.	CWP - 12357 - 2014	SURINDERPAL SHARMA & ORS	STATE OF PUNJAB & ORS
36.	CWP - 16536 - 2014	RAJ KUMAR	STATE OF PUNJAB & ORS
37.	CWP - 543 - 2015	GAGANDEEP KAUR	STATE OF PUNJAB AND ORS
38.	CWP - 27916 - 2017	KULWINDER SINGH AND OTHERS	STATE OF PUNJAB AND OTHERS
39.	CWP - 5641 - 2014	ASHA RANI & ANR	STATE OF PUNJAB & ORS
40.	CWP - 4430 - 2018	MAJOR SINGH	STATE OF PUNJAB AND OTHERS
41.	CWP - 3059 - 2021	PARMJIT SINGH AND ORS	STATE OF PUNJAB AND ORS
42.	CWP - 9614 - 2023	SAMEER CHAUDHARY AND ANOTHER	STATE OF PUNJAB AND OTHERS
43.	CWP - 7189 - 2013	HARBANS SINGH	STATE OF PUNJAB & ORS
44.	CWP - 3803 - 2014	MANJIT KAUR AND ANR	STATE OF PUNJAB & ORS
45.	CWP - 475 - 2020	ARCHANA SUDHA	STATE OF PUNJAB AND OTHERS
46.	CWP - 6734 - 2014	KULWANT SINGH & ORS	STATE OF PUNJAB & ORS
47.	CWP - 6283 - 2017	JASPREET KAUR	STATE OF PUNJAB & ORS
48.	CWP - 5025 - 2017	BALJINDER KAUR	STATE OF PUNJAB AND ORS
49.	CWP - 5412 - 2017	MANVIR SINGH AND OTHERS	STATE OF PUNJAB AND OTHERS
50.	CWP - 6618 - 2020	SURESH KUMAR AND ORS	STATE OF PUNJAB AND OTHERS
51.	CWP - 3090 - 2020	KAMALJIT SINGH	STATE OF

			PUNJAB AND OTHERS
52.	CWP - 2910 - 2020	RITU	STATE OF PUNJAB AND OTHERS
53.	CWP - 5675 - 2020	JASVIR SINGH	STATE OF PUNJAB AND OTHERS
54.	CWP - 4128 - 2014	JATINDER SINGH	STATE OF PUNJAB AND ANR.

10th July, 2023
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(ANIL KSHETARPAL)
JUDGE