

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

1. LPA-1365-2023 (O&M)

Punjab State Power Corporation Ltd. ...Appellant

Vs.

Harish Kumar and ors. ...Respondents

2. LPA-1656-2023 (O&M)

Punjab State Power Corporation Ltd. & ors. ...Appellants

Vs.

Narinder Pal and ors. ...Respondents

3. LPA-1407-2023 (O&M)

Punjab State Power Corporation Ltd. & anr. ...Appellants

Vs.

Jangsher Singh and ors. ...Respondents

Date of decision: 28.11.2023

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

**Present: Mr. Parminder Singh, Advocate
for the appellant in LPA No. 1365 and 1407-2023.**

**Mr. Kunal Mulwani, Advocate
for the appellant in LPA No. 1656-2023**

**Mr. Abhishek K. Premi, Advocate
for respondent No. 1 in LPA No. 1407-2023**

**Mr. H.S. Saini, Advocate
for respondent Nos. 1 to 4 in LPA No. 1656-2023**

**Mr. Randeep Singh, Advocate
for respondent Nos. 1 and 2 in LPA No. 1365-2023**

Ritu Bahri, Acting Chief Justice

C.M. No. 3481 and 3482-2023

For the reasons mentioned in the applications, delay of 10 days in re-filing and 06 days in filing of the appeal is condoned.

The applications stand allowed.

C.M. No. 4200 and 4201-2023

For the reasons mentioned in the applications, delay of 09 days in filing and 33 days in re-filing of the appeal is condoned.

The applications stand allowed.

C.M. No. 3579-2023

For the reasons mentioned in the application, delay of 21 days in re-filing of the appeal is condoned.

The application stands allowed.

LPA No. 1365-2023 and connected matters

1. This order shall dispose of the above Letters Patent Appeals whereby challenge is to judgment dated 27.04.2023 (LPA-1365-2023), 26.05.2023 (LPA-1407-2023) and 07.07.2023 (LPA-1656-2023) passed by the learned Single Bench of this Court. However, for facility of reference, the facts are being taken from LPA No. 1365-2023.

2. The appellant-Corporation has come up in appeal against the judgments of the learned Single Judge whereby writ petition filed by the petitioners was allowed, seeking quashing of impugned list dated 04.06.2018 whereby candidates lower in merit viz-a-viz the petitioners were appointed on the post of Assistant Lineman.

3. A bare perusal of the impugned judgment shows that the

appellant-Corporation advertised 1500 vacancies of Assistane Lineman. Out of the above posts, 750 posts were meant for general category. The required/desired qualifications for the said post read as under:-

“4. Qualification

The candidate should meet with the following qualification:-

(i) Matriculation

(ii) 2 years National Apprenticeship Certificate in Lineman Trade

(iii) The candidate who possess higher education i.e Degree/Diploma in Electrical Engineering will be considered only if they have minimum qualification i.e National Apprenticeship Certificate in Lineman Trade.

Note:-Preference will be give to those candidates who have done two years Apprenticeship in the trade of Lineman from PSPCL/PSTCL or erstwhilke PSET.If above candidates are not available, the other candidates having two years Apprenticeship in the trade of Lineman from any other State/BBMB etc will be considered.”

4. Learned Single Judge had observed that it is not in dispute that the writ-petitioners applied in the General Category and petitioner No. 1 was placed at Sr. No. 146 in the merit list with the percentage of 85.61 and petitioner No. 2 was placed at Sr. No. 138 in the merit list with the percentage of 85.79. The writ-petitioners were not selected only on the ground that the candidates who have attained their apprenticeship in the trade of Lineman from PSPCL/PSTCL or erstwhile PSEB have a preferential right.

5. The Learned Single Judge referred to judgment of Hon'ble Apex Court in '**The Secretary, Andhra Pradesh Public Service Commissioner vs. Y.V.V.R Srinavasulu and Ors, (2003) 5 SCC 341, State of U.P and another vs. Om Parkash and others, (2006) 6 SCC 424, Secy (Health), Department of Health vs. Dr. Anita Puri (1996) 6 SCC 282 and J. Ashoka vs. University of Agricultural Sciences and others, (2017) 2 SCC 609**' and has held that the above note amounts to 100 % reservation in favour of the candidates of the appellant-Corporation. Any interpretation that militates against the mandate of Articles 14 and 16 of the Constitution of India deserves to be rejected. It has been observed that the Hon'ble Apex Court has rightly held that the question of preference would arise only when two candidates are equal in merit. Further Provision 9 of the above public notice mandates that selection will be purely on merit. Thus, the note appended to the main provision cannot have an overriding effect over the other substantive provision. The selection has to be abide by merit and preferential right will come into play only when candidates are at par in merit.

6. Learned counsel for the appellant has not been able to cite any judgment that the juniors can be appointed by ignoring the merit list on the ground that the department was to give preference to the candidates who have attained their apprenticeship in the trade of Lineman from PSPCL/PSTCL or erstwhile PSEB.

7. The findings recorded by the learned Single Judge are unexceptional and are based on appropriate appreciation of facts.

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

9. Since main appeals itself have been dismissed, all civil misc applications stand disposed of.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

28.11.2023
G Arora

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