

In the High Court of Punjab and Haryana, at Chandigarh

1. Civil Writ Petition No. 22871 of 2014 (O&M)

Rashmi Devi and Others
... Petitioner(s)

Versus

State of Punjab and Others
... Respondent(s)

2. Civil Writ Petition No. 23504 of 2014

Nirmaljit Kaur and Others
... Petitioner(s)

Versus

State of Punjab and Others
... Respondent(s)

3. Civil Writ Petition No. 593 of 2015 (O&M)

Sheela Devi and Others
... Petitioner(s)

Versus

State of Punjab and Others
... Respondent(s)

4. Civil Writ Petition No. 1177 of 2015

Gagandeep Kaur
... Petitioner(s)

Versus

State of Punjab and Others
... Respondent(s)

AND

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And Other Connected Cases**

5. Civil Writ Petition No. 26686 of 2015

Parveen Rani

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

**Reserved On: 11.05.2023
Pronounced On: 03.07.2023**

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. G.S.Bal, Senior Advocate
with Mr. H.S.Saggu and Mr. Dilshad S. Gill, Advocates
for the petitioner(s) (In CWP-22871-2014, CWP-23504-2014
and CWP-593-2015).

Mr. Balbir Kumar Saini, Advocate
for Mr. Vikas Malik, Advocate
for the petitioner (In CWP-26686-2015).

Mr. Navdeep Chhabra, Senior Deputy Advocate General,
Punjab.

Mr. Dushyant Jog, Advocate
for Mr. T.V.S.Lehal, Advocate
for the respondent No.126 (In CWP-23504-2014).

Anil Kshetarpal, J.

1. With the consent of the learned counsel representing the parties,
a batch of five connected writ petitions is being disposed of by a common
order. For facility, the facts are being noticed from the lead case i.e. Civil
Writ Petition No. 22871 of 2014.

2. The petitioners are working as Anganwari Workers under the
Integrated Child Development Scheme of the Central Government started in
the year 1975. They claimed to be belonging to the general category. They

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are praying for the issuance of the writ in the nature of certiorari to quash the select list issued by the respondent No.2 on 03.11.2014 for appointment of the Anganwari Supervisors out of the Anganwari Workers working in the department while praying for the directions to the respondent No.1 and 2 to redraw the select list.

3. The relevant facts, in brief, are required to be noticed in order to comprehend the issue involved in the present case. On 23.12.2010, the Department of Social Security and Women and Child Development, Punjab, issued the recruitment notice inviting the applications for the appointment of 286 Anganwari Supervisors out of the Anganwari Workers working in the Anganwari Centres functioning under the department. It was notified that the number of the posts can be increased or decreased and the selection will be made to the extent of 50% from amongst the Anganwari Workers having educational qualification as graduate, whereas, 50% from amongst the Anganwari Workers having educational qualification of Matriculation. The Note-I reads as under:-

“1. The selection shall be made in accordance with the rules/regulations of Punjab Government and reservation quota will be given to each category according to the percentage prescribed by the Government.”

4. The services of the Anganwari Workers are regulated by the Punjab Social Security and Development of Women and Children (Group ‘C’) Non-Ministerial Service Rules, 2001 (hereinafter referred to as “the 2001 Rules”). As per Appendix “A”, there were 723 posts of the Supervisor.

As per the stand of the State, now the total posts are 963. The item No. 13

of Appendix “B” reads as under:-

1.	2.	3.	4.	5.	6.
13.	Supervisor	Twenty five per cent	Seventy five per cent	(i) Should be a Graduate from a recognized university or institution in any of the subjects viz. Home Science, Nutrition, Child Development, Psychology, Economics, Social Work or Sociology OR (ii) Should be a Graduate from recognized university or institution and should have three years experience as Bal Sewaka or Gram Sewaka or Angandwadi Workers; and (iii) Should have knowledge of Punjabi language upto Matriculation Standard. Note: The female employees who have been retrenched from a department of the Punjab Government or a Board, Corporation or Public Sector Undertakings of the Punjabv Government and who have worked therein for a minimum period of two years in connection with any scheme relating to the Welfare of Women and Children, shall be appointed on priority basis by giving relaxation in age upto a maximum period of five years.	(i) Out of seventy five per cent of promotion quota, thirty five per cent posts of the Supervisors will be filled up by selection from amongst the Anganwadi Workers who are Matriculates from a recognized university or institution and who have an experience of working as such for a minimum period of eight years; (ii) Thirty five per cent by selection from amongst the Anganwadi Workers, who are Graduates from a recognized University or institution and who have an experience of working as such for a minimum period of three years; and (iii) Five per cent by promotion amongst the Bal Sewakas or Greh Sewakas, who have an experience of working as such for a minimum period of eight years.

5. On the careful reading of the aforesaid item No. 13 of Appendix

of the posts are to be filled up by way of promotion. Clause (i) and (ii) of Column No. 6 provide that 35% of the posts of the Supervisors will be filled up by way of selection each from amongst the Anganwari Workers having educational qualification as matriculation and graduation, whereas 5% of the posts are to be filled up by way of promotion from amongst the Bal Sewaks and Greh Sewaks.

6. In substance, the grievance of the petitioners is that while carrying out the selection, only seven Anganwari Workers from the general category have been selected. While filing the reply, the respondents have stated that the backlog of the vacancies was sought to be filled up, as a result of which only seven posts could be given to the general category candidates. The break-up given in Annexure R1 is extracted as under:-

<i>Category</i>	<i>Required Posts</i>	<i>Filled Posts</i>	<i>Vacant</i>	<i>To be Filled</i>
<i>General</i>	<i>169</i>	<i>162</i>	<i>7</i>	<i>07</i>
<i>S.C.</i>	<i>67</i>	<i>14</i>	<i>53</i>	<i>53</i>
<i>B.C.</i>	<i>34</i>	<i>9</i>	<i>25</i>	<i>25</i>
<i>Ex.Serviceman</i>	<i>44</i>	<i>1</i>	<i>43</i>	<i>40</i>
<i>Handicapped</i>	<i>10</i>	<i>2</i>	<i>8</i>	<i>08</i>
<i>Freedom Fighter</i>	<i>3</i>	<i>—</i>	<i>3</i>	<i>03</i>
<i>Sportsman</i>	<i>10</i>	<i>—</i>	<i>10</i>	<i>9</i>
<i>Total</i>	<i>337</i>	<i>188</i>	<i>149</i>	<i>145</i>

7. Heard the learned counsel representing the parties at length and with their able assistance, perused the synopsis filed by the learned senior counsel representing the petitioners and the paper-book.

8. In substance, the learned counsel representing the petitioners, while filing the synopsis, has reiterated the following contentions as noticed in para No. 9 and 10 of the synopsis, which read as under:-

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“9. That a bare perusal of statistical data regarding backlog vacancies given by respondents above shows that even in those categories, where reservation is horizontal, backlog vacancies are stated to have been carried forward and filled to the detriment of general category candidates. The backlog vacancies in respect of SC and BC category only could be carried forward under the Rules and if $53+25=78$ vacancies meant for SC and BC are taken out of total of 145 posts, $145-78 = 87$ posts are required to be filled up in total and out of these $87-2 = 43$ posts are liable to be filled from general category candidates.

10. That otherwise also a bare perusal of the advertisement-Annexure P-1 does not show that there were any backlog vacancies. But assuming for the sake of argument and on the basis of written statement filed by the respondents that there was some backlog in respect of SC and BC categories, only 78 carried forward vacancies out of 145 posts could be filled up as backlog vacancies and out of remaining 87 posts only 50% could be kept reserved for the reserve categories. Thus, the action of the respondents in filling up only 7 general category posts is patently an illegal and arbitrary action and thus the selection list-Annexure P-9 to that extent is liable to be set aside. Under these circumstances the above noted writ petition is liable to be allowed as prayed for.”

On the other hand, the learned State counsel has produced the

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roster register to bring home their point that the selection list has been prepared in accordance with the rules.

10. While explaining, the learned State counsel has submitted that out of 963 sanctioned posts, 241 have to be filled through the direct recruitment, whereas 5% posts are to be filled from amongst the Bal Sewaks and Greh Sewaks. Out of the remaining 70% of the cadre strength, which comes to 674, amongst the graduates and matriculates, the division has to be in the ratio of 50:50. Hence, each category gets 337 posts. It has been pointed out that as per the reservation policy of the State, 169 posts are required to be filled from the open/general category, whereas 162 posts have already been filled. There were only seven vacant vacancies from the open category which have been filled by the impugned selection list.

11. As already noticed, the primary argument of the learned senior counsel representing the petitioners is to the effect that the backlog vacancies only with respect to the categories of the Scheduled Castes and Backward Class could be carried forward and the remaining are required to be filled up in the ratio of 50:50 amongst the graduate and matriculate Anganwadi Workers. The learned counsel relies upon the judgment passed in ***Rajinder Pal Singh v. State of Punjab and Others 2012 (4) RSJ 715***. While referring to para 5 of the aforesaid judgment, the learned counsel contends that the Division Bench has held that there cannot be any carrying forward of the vacancies apart from the candidates belonging to the Scheduled Caste and Backward Class categories. This Court has carefully read the judgment.

In the aforesaid case, the petitioner was a differently abled person. The

petitioner was aggrieved of a discriminatory provision to grant 5%

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concessions to the differently abled person as opposed to the 10% relaxation provided to the candidates belonging to the Scheduled Caste and Backward Class categories which was declared to be discriminatory and the mandate was issued directing the respondent to grant 10% relaxation to a differently abled person. With highest respect, the aforesaid judgment is not applicable to the facts of the present case.

12. The next judgment relied upon by the learned senior counsel representing the petitioner is *Kulwant Kumar Kalson and Others v. State of Haryana and Others 2015 (3) SCT 730*. In the aforesaid judgment, the dispute as to assignment of the *inter-se* seniority of the officers in the Haryana Civil Services (Executive Branch) in three batches of the direct recruitment was in dispute. As is evident, this judgment is not relating to fill up the backlog vacancies. Hence, the aforesaid judgment is also not applicable to the facts of the present case.

13. The next judgment relied upon by the learned senior counsel representing the petitioners is in *Anupal Singh and Others v. State of Uttar Pradesh and Others (2020)2 SCC 173*. In that case, the judgment passed by the High Court of Judicature at Allahabad was challenged before the Supreme Court. After the issuance of the recruitment notice, the office memorandum was issued by the State to rectify the wrong calculation and revised requisition of the number of vacancies in different categories. The High Court allowed the writ petition while holding that it amounts to changing the rules of game in the middle of the selection process. The Supreme Court reversed the judgment of the High Court and held that such

rectification is not permissible. With greatest respect, the aforesaid

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judgment is not applicable to the facts of the present case.

14. As is evident from the affidavit filed by the State, the department has filled up the backlog vacancies in order to rectify the imbalance to fulfill the requirements of the reservation policy of the State. Hence, the question of carrying forward the horizontally reserved vacancies does not arise in the present case.

15. Keeping in view the aforesaid discussion and the positive stand of the State that there was a backlog reserved vacancies, this Court does not find it appropriate to quash the selection list which was finalized in the year 2010. Consequently, all the writ petitions are dismissed.

16. The miscellaneous application(s) pending, if any, in all the writ petitions, shall stand disposed of.

**(Anil Kshetarpal)
Judge**

July 03, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No