

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

Date of decision : 4th of May, 2023

CWP No.24332 of 2016

Lovepreet Sharma

....Petitioner

Versus

State of Punjab and others

...Respondents

CWP No.18146 of 2018

Harmeet Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Harinder Sharma, Advocate
for the petitioner in CWP No.24332 of 2016.

Mr. Mohit Jaggi, Advocate
for the petitioner in CWP No.18146 of 2018.

Mr. Inderpreet S. Kang, Asstt. Advocate General, Punjab.

PANKAJ JAIN, J. (ORAL)

Petitioners have invoked writ jurisdiction of this Court under Article 226/227 of the Constitution of India seeking writ in the nature of mandamus in form of directions to the respondents to consider their candidature in the category of wards of Police Personnel against the post put for recruitment pursuant to Public Notice bearing No.01 of 2016 dated 31st of May, 2016.

2. Petitioners are the aspirants for the post of Constable (males/female) in the District Police Cadre and Armed Police Cadre of

Punjab Police put to public notice vide advertisement No.01 of 2016. They claim themselves to be the wards of police personnel. However while applying they were not in possession of the certificate and thus applied under General Category. As per public notice 2% seats were reserved for wards of police personnel. Result was declared on 26th of October, 2016 and all the petitioners applied for change of category thereafter. Having denied the same the petitioners have approached this Court by way of present writ petitions. Thus the issue is : *'that once the petitioners applied in the General Category can they be allowed to change the category after declaration of result?'*

3. Petitioners have relied upon judgment rendered by this Court in CWP No.145 of 2017 titled as '**Harman Preet Singh and others vs. State of Punjab and others**' dated 16th of January, 2023 wherein this Court held as under :-

“7. As a general proposition of law once the candidate has applied in a particular category he is precluded from changing the same and has to be considered in the said category only. However, in the present case, the petitioners applied in the General Category not by choice but by compulsion as there was no process for certifying them to be the one belonging to the reserved category. Once the legal handicap got removed during the pendency of the selection process they applied for such certificate. By being in possession of such certificate, the fact that they belong to the reserved category can't be disputed. Once the respondents have allowed other candidates to change their category, denial of the same to the petitioners would necessarily amount to discrimination against the petitioners.

9. Consequently, the petitioners are also held to be entitled for consideration in the category reserved for wards of Police Personnel. Resultantly, the present writ petition is allowed.

10. Respondents are directed to consider the claim of the petitioners on the strength of the Certificates appended as Annexure P-5 (Colly.) in the category reserved for wards of Police Personnel. In case the petitioners are found entitled, they shall be appointed within a period of three months from the date of receipt of certified copy of this order. Their appointments shall relate back to the date their juniors were appointed in the same category. Petitioners will not be entitled for any monetary benefit for the said period on the principle of 'No Work No Pay'. However, all the notional benefits shall be granted to them including seniority, increment etc. and for all intents and purposes their appointment shall relate back to the date their juniors have been appointed pursuant to Public Notice (Annexure P-1).

11. Ordered accordingly.”

4. Per contra, Counsel for the respondents has relied upon judgment rendered by Co-ordinate Bench in the case of **Sukhroop Singh vs. State of Punjab and others - CWP No.26293 of 2016** dated 4th of November, 2022 as upheld by **LPA Bench in LPA No.1111 of 2022** dated 27th of January, 2023. At the same time, Mr. Kang submits that in the case of Harmanpreet Singh and others (supra), the petitioners applied on 25th of October, 2016 prior to the date of declaration of provisional merit list on 26th of October, 2016 whereas in both these matter the petitioners applied after the declaration of provisional merit list on 26th of October, 2016.

5. Mr. Sharma joins issue on the same and submits that the same

would not make any difference.

6. I have heard counsel for the parties and have gone through records of the case.

7. In the considered opinion of this Court even in the case of Harman Preet Singh and others vs. State of Punjab and others (supra) this Court held that as a general proposition of law once the candidate has applied in a particular category he is precluded from changing the same. However it was in the facts and circumstances of the said case that the applicants were allowed the benefit of being wards of police personnel. In the present case, the petitioners never represented to the authorities for change of category till the declaration of provisional merit list. Thus it was a calculated risk taken by the petitioners. Once they failed in general category to make it to the provisional merit list they represented. Thus once the cat was out of the bag only thereafter petitioners cried foul.

8. In the considered opinion of this Court the equity is not in favour of the petitioners. Law will not come to the aid of fence-sitters who have taken a calculated risk and waited till the time they became certain of selection on changing the category.

9. In view of above, the claim of the petitioners would not be governed by the decision rendered by this Court in **Harman Preet Singh and others vs. State of Punjab and other** (supra) but would be covered by the ratio of law laid down by Co-ordinate Bench in **Sukhroop Singh vs.**

State of Punjab and others (supra) as affirmed in LPA No.1111 of 2022.

10. Consequently, the present writ petitions are ordered to be dismissed.
10. A copy of this order be kept on the file of other connected case.

May 04, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No