

In the High Court of Punjab and Haryana, at Chandigarh

1. Civil Writ Petition No. 19643 of 2018 (O&M)
Sourabh and Others
... Petitioner(s)

Versus

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

2. Civil Writ Petition No. 12175 of 2019
Simranjeet Singh
... Petitioner(s)

Versus

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

AND

3. Civil Writ Petition No. 20402 of 2021
Sarbjeeet Kaur
... Petitioner(s)

Versus

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

DATE OF DECISION: 25.04.2023

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. H.C.Arora, Advocate
for the petitioner(s) (In CWP-19643-2018 and CWP-20402-2021).

Mr. K.P.S.Sandhu, Advocate
for Mr. A.S.Parmar, Advocate
for the petitioner (In CWP-12175-2019).

Mr. Vikas Arora, Assistant Advocate General,
Punjab, for the respondents.

**Civil Writ Petition No. 19643 of 2018 (O&M)
And Other Connected Cases**

Anil Kshetarpal, J.

1. Three connected writ petitions i.e. Civil Writ Petition No. 19643 of 2018, Civil Writ Petition No. 12175 of 2019 and Civil Writ Petition No. 20402 of 2021 have come up for final disposal.
2. The petitioners pray for the issuance of a writ in the nature of certiorari to quash the order passed by the respondent No.2-Principal Secretary to the Government of Punjab, Department of Sports and Youth Services, Punjab, on 05.07.2018, whereby their prayer to unreserve 67 posts of sportsperson (general) category in terms of Rule 3 of the Punjab Recruitment of Sportsmen Rules, 1988 (hereinafter referred to as “the 1988 Rules”) has been rejected.
3. In order to comprehend the controversy involved in the present case, it would be appropriate to notice the relevant facts briefly. On 27.11.2015, 556 posts of Clerks and 58 posts of Clerk-cum-Data Entry Operators were advertised which were subsequently increased to 2715 posts of Clerks. Out of the said posts, 98 posts were kept reserved for the sportspersons category. Thus, the petitioners allege that 67 posts reserved for the sportspersons category remained vacant on account of the non-availability of the eligible candidates. They claim that since these reserved posts of the sportspersons category have been carried forward for a period of two years, therefore, these are required to be converted in terms of the Rule 3 of the 1988 Rules, which reads as under:-

“(2) Where a reserved vacancy remains unfilled for non-availability of sportsman eligible recruitment under these rules,

**Civil Writ Petition No. 19643 of 2018 (O&M)
And Other Connected Cases**

3

such vacancy may be filled in temporarily from any other sources in accordance with the rules regulating the recruitment, and the conditions of service of persons appointed to such posts as if the vacancy was not reserved;

Provided that the reserved vacancy so filled in shall be carried forward for the subsequent occasions arising during atleast two years in each of which such occasion arises for recruitment, whereafter the vacancy in question shall be treated as unreserved.”

4. The learned counsel representing the petitioners also rely upon the recommendations made by the Subordinate Services Selection Board requesting the government to grant permission for treating the posts as unreserved. Additionally, they asked for direction to the respondents to fill the unreserved posts in accordance with merit.

5. On the other hand, the learned State counsel, while contesting the case, has taken a stand that pursuant to the subsequent recruitment notice, the posts have already been filled up and the Principal Secretary, while passing the order, has held that the waiting list cannot be kept alive eternally.

6. This Court has considered the submissions of the learned counsel representing the parties and with their able assistance, perused the paper-books.

7. As far as the applicability of Rule 3 of the 1988 Rules is concerned, it is not in dispute between the parties. The question that arises

**Civil Writ Petition No. 19643 of 2018 (O&M)
And Other Connected Cases**

for adjudication is “whether, after the passage of eight years, the Court should order the posts to be considered as unreserved and consequent appointments?” The petitioners were placed in the waiting list. Hence, they were not a part of the original select list. The recruitment took place in the year 2015-16. No candidate, lower in merit than the petitioners, has been appointed by the appointing authority. Undoubtedly, the rules that govern the appointment provide for the conversion of the vacant posts reserved for the sportspersons category if the conditions laid down therein are fulfilled. However, at this stage, this Court does not find it appropriate to issue the directions to the respondents to consider the petitioners’ cases particularly because of the lapse of time.

8. The learned counsel representing the petitioners submit that a co-ordinate Bench in *Manpreet Kaur v. State of Punjab and Others (Civil Writ Petition No. 2081 of 2020, decided on 28.01.2021)* has directed conversion of the posts which remain unfilled. He further submits that delay, if any, has occurred due to pendency of the writ petition which could not be taken up on account of COVID-19 pandemic.

9. This Court has considered the submissions of the learned counsel representing the parties. There is no dispute with regard to the proposition of law because the rules themselves are categorical. However, the question that arises is with regard to the exercise of writ jurisdiction in the present circumstances. The waiting lists prepared during the recruitment process must come to an end after a reasonable period of time. The petitioners were not the part of the original select list as they were lower in

Civil Writ Petition No. 19643 of 2018 (O&M)
And Other Connected Cases

10. As regards delay in the decision of the case, it is a well settled rule that no one should suffer prejudice on account of the delay of the Court in the decision.
11. Keeping in view the aforesaid peculiar facts, no case is made out to issue the writ. Consequently, all the three writ petitions are dismissed.
12. The miscellaneous application(s) pending, if any, in all the three writ petitions shall stand disposed of.

(Anil Kshetarpal)
Judge

April 25, 2023
“DK”

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