

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.204

LPA-1406-2013 (O&M)

Date of decision : 14.09.2023

Harjit Singh and others

..... Appellants

Versus

State of Punjab and others

..... Respondents

2.

LPA-1440-2013 (O&M)

State of Punjab and others

..... Appellants

Versus

Virpal Kaur and others

..... Respondents

3.

LPA-1420-2013

Sukhvinder Singh

..... Appellant

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present : Mr.Baljinder Singh, Advocate, for the appellants
in LPA-1406-2013.

Mr.R.S.Pandher, Sr.DAG, Punjab.

None for the appellant in LPA-1420-2013.

Mr.V.K.Sandhir, Advocate, for respondents No.5 to 12
in LPA-1406-2013 and
for respondents No.2 and 12 in LPA-1440-2013.

Mr.Varun Veer Chauhan, Advocate, for respondent No.8
in LPA-1440-2023.

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DEEPAK SIBAL, J. (Oral)

1. These three intra court appeals have been taken up and are being
decided together as they arise out of a common judgment dated 01.05.2013
passed by a learned Single Judge of this Court. For the sake of convenience,

facts are being taken from LPA-1406-2013-*Harjit Singh and others vs. State of Punjab and others*.

2. Respondents No.4 to 24 knocked the doors of this Court with a grievance that they have not been appointed as Physical Training Instructors (for short, PTIs) against 50% posts reserved for female candidates. They complained that such action on the part of the State was in violation of the terms of the advertisement against which they had applied and had been selected. Through judgment dated 01.05.2013 a learned Single Judge of this Court allowed the petition against which the present intra court appeal has been filed.

3. Through advertisement dated 26.10.2006 the Centre for Development of Advanced Computing (for short, CDAC) invited applications for recruitment to various posts in the Education Department, Punjab. Out of the advertised posts 175 posts were of PTIs. As per the advertisement 50% of the advertised posts were reserved to be filled up from females. Through corrigendum dated 08.11.2006 the State increased the number of posts of PTIs from 175 to 849 with no change in the other terms and conditions of the advertisement. Respondents No.4 to 24 applied for consideration of their candidatures as PTIs against the posts reserved for female candidates but they were not considered eligible on the ground that they possessed a higher qualification than the one advertised. However, on the strength of judgment dated 05.02.2010 rendered by a Full Bench of this Court in the case of similarly placed candidates through which it had been held that the candidates possessing a higher qualification in the same line were required to be considered eligible, the CDAC issued a public notice dated 22.06.2011 calling all the candidates possessing higher qualification, including respondents No.4 to 24, for counseling. After the counseling a merit list of 849 posts of PTIs was uploaded.

The posts of PTIs had been bifurcated in the ratio of 50:50 between male and female candidates in the general and reserved categories. However, in terms of the afore merit list no appointment letters were issued and the merit list itself was redrawn purportedly in terms of the judgment dated 08.01.2010 rendered by a Division Bench of this Court in CWP-12275-2000-*Neelam Rani vs. State of Punjab and others*. As per *Neelam Rani's* case (supra) if the women candidates possessed the requisite merit they could not be excluded from competing for being appointed against the posts specified to be filled up from the male candidates but the reverse was held to be not permissible. Respondents No.4 to 24 were aggrieved by the afore redrawn merit list as according to them the same did not depict the correct interpretation of *Neelam Rani's* case (supra) as in the redrawn merit list the female candidates were less than 50% of the total advertised posts and if *Neelam Rani's* case was to be rightly followed, the above situation was not possible. In these circumstances, respondents No.4 to 24 approached this Court through a bunch of petitions which were allowed by a learned Single Judge of this Court through judgment dated 01.05.2013. The private respondents in the petitions filed by respondents No.4 to 24 as also the State of Punjab are in appeal against such judgment.

4. Learned counsel for the parties have been heard and with their able assistance the record of the case has also been perused.

5. The issue raised in *Neelam Rani's* case (supra) was as to whether under the Punjab State Education Class III (School Cadre) Service Rules, 1978 (for short, the Rules), could there be, through creation of a separate cadre, reservation of 50% posts for male candidates. Through judgment dated 08.01.2010 a Division Bench of this Court concluded that there could be no reservation for male candidates but further held that in terms of Rule 3 in

Appendix-A of the Rules, 50% of the posts could be reserved for female candidates and the remaining 50% were required to be filled up on the basis of merit irrespective of the sex of such candidates. It was further held that the judgment would apply prospectively.

6. In the light of the law laid down in *Neelam Rani's* case (supra) the writ petitions filed by respondents No.4 to 24 were allowed with a direction to the CDAC/State of Punjab to first draw a common merit list of unreserved posts. Then the posts reserved for SC/ST/BC candidates be filled up and thereafter if the number of the candidates belonging to special reserved categories like women, physically handicapped, ex-servicemen and freedom fighters etc. are found to have representation which is less than the percentage of posts reserved for them then these categories be given representation to the extent of the percentage of posts reserved for them.

7. The learned Single Judge found that in the case in hand the afore steps had not been taken in seriatim and therefore, relying on the law laid down in *Neelam Rani's* case (supra) allowed the writ petition filed by respondents No.4 to 24 resulting in the issuance of directions to the CDAC/State of Punjab to fill up the advertised posts in the above seriatim.

8. In the meanwhile, *Neelam Rani's* case (supra) was tested before the Supreme Court in Civil Appeal No.(s) 4501-4502 of 2021-*Ashu Chopra and others vs. State of Punjab and others*. Such appeals were disposed of by the Supreme Court but only after the Supreme Court upheld the law laid down by this Court in *Neelam Rani's* case (supra).

9. Through the impugned judgment the learned Single Judge has merely issued directions to the CDAC/State of Punjab to re-determine the merit of the selected candidates in terms of the law laid down in *Neelam Rani's* case

(supra). As noticed earlier, *Neelam Rani's* case (supra) has been upheld by the Supreme Court through its judgment dated 15.03.2023 passed in *Ashu Chopra's* case (supra).

10. In view of the above, we find no error in fact or in law in the judgment under appeal.

11. Resultantly, all the three LPAs are dismissed.

12. No costs.

[DEEPAK SIBAL]
JUDGE

14.09.2023
shamsher

[SUKHVINDER KAUR]
JUDGE

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