

CWP-4483-2021 & connected cases 2

(6)	CWP-6195-2021	
Sarabjit Kaur		.. Petitioner
	Versus	
State of Punjab and others		.. Respondents
(7)	CWP-6258-2021	
Raj Kumar and another		.. Petitioners
	Versus	
State of Punjab and another		.. Respondents
(8)	CWP-6499-2021	
Sukhpreet Kaur		.. Petitioner
	Versus	
State of Punjab and others		.. Respondents
(9)	CWP-9061-2021	
Taljinder Kaur		.. Petitioner
	Versus	
State of Punjab and others		.. Respondents
(10)	CWP-3656-2021	
Mandip Kaur		.. Petitioner
	Versus	
State of Punjab and others		.. Respondents
(11)	CWP-4041-2021	
Jasbir Kaur and others		.. Petitioners
	Versus	
State of Punjab and others		.. Respondents

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(18)

Poonam Rani

.. Petitioner

Versus

State of Punjab and others

.. Respondents

(203)

CWP-13848-2013

Rachna Rani

.. Petitioner

Versus

State of Punjab and others

.. Respondents

(264)

CWP-11827-2021

Harpreet Singh

.. Petitioner

Versus

State of Punjab and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Rashika Bansal, Advocate and
Mr. Nimish Gautam, Advocate, for
Mr. Dheeraj Mahajan, Advocate, for the petitioner
in CWP-4483-2021.

Mr. H.S. Saini, Advocate, for the petitioners
in CWP-4376-2021.

Mr. Nitesh Singla, Advocate, for the petitioners
in CWP-4688-2021 and CWP-3656-2021.

Mr. Rohiteswar Singh, Advocate, for the petitioners
in CWP-5031-2021, CWP-2421-2021.

Mr. Rajesh Kumar, Advocate, for
Mr. R.K. Choudhary, Advocate, for the petitioners
in CWP-6169 and 6195 of 2021.

Mr. Vijay Lath, Advocate and
Mr. Naveen Sharma, Advocate, for the petitioners
in CWP-4723-2021, CWP-6258-2021 and CWP-11827-2021.

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Mr. Sunny Singla, Advocate, for the petitioners
in CWP-6499-2021.

Ms. Dhamanpreet Kaur, Advocate,
Mr. Ratik Kapur, Advocate, and
Ms. Shomya Mehra, Advocate, for the petitioners
in CWP-9061-2021.

Mr. Parvesh K. Saini, Advocate, for the petitioners
in CWP-5129-2021, CWP-4041-2021 and CWP-6106-2021.

Mr. Vishal Mittal, Advocate, for the petitioners
in CWP-5373-2021.

Mr. H.S. Mann, Advocate, for the petitioners
in CWP-17209-2020

Mr. Rajesh Kumar, Advocate, for
Mr. R.K. Chaudhary, Advocate, for the petitioner.

Mr. Amit Shukla, Advocate, for the petitioners
in CWP-4767-2021.

Mr. Swapan Shorey, Deputy Advocate General, Punjab and
Mr. T.P.S. Chawla, Sr. Deputy Advocate General, Punjab.

Mr. Apoorva Arya, Advocate and
Mr. Jagmohan Ghuman, Advocate, for respondent No.4
in CWP-17209-2020.

HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order, 20 writ petitions, the details of which have been given in the heading, are being disposed of as all these petitions involve the same question of law on similar facts.

2. In the present bunch of petitions, the grievance being raised by the petitioners is that the petitioners intended to compete for the post of Science Master/Mistress as advertised vide Advertisement dated 28.02.2020 (Annexure P-1) but they incorrectly filled their category in which they wanted to compete and the written test for examination was held on

10.01.2021 after which, the respondents issued a public notice dated

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13/14.01.2021 allowing the candidates to correct the category in which they wanted to compete in case wrongly filled initially, which public notice dated 13/14.01.2021 was withdrawn by the respondents vide Notice dated 19.02.2021 keeping in view the representations received by the other candidates.

3. Learned counsel for the petitioners argues that the public notice dated 19.02.2021 by which, the other public notice dated 13/14.01.2021 allowing the corrections in the category was withdrawn, is arbitrary and illegal and the petitioners should be allowed to compete in the changed category which they filled in pursuance to the public notice dated 13/14.01.2021, though withdrawn.

4. Upon notice of motion, the respondents have filed the reply wherein, the respondents have stated that the public notice dated 19.02.2021 by which, the notice dated 13/14.01.2021 giving option to the candidates to change the category has been withdrawn, is valid and the decision has been taken at a highest level keeping in view the representations which have been received from the other candidates competing in the selection process. As per the reply filed by the respondents, the candidates have only been allowed to compete in the category in which they had filled the fees keeping in view the initial application form filled.

5. Learned counsel for the respondents submits that the notice dated 19.02.2021 (Annexure P-12) has been issued by the competent authority keeping in view the provisions of the Advertisement dated 28.02.2020 (Annexure P-1) hence, the petitioners cannot raise any grievance for not allowing them to change their category which they initially filled for competing for the post of Science Master/Mistress.

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6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. It is a settled principle of law that the terms and conditions of the Advertisement are sacrosanct and are to be complied with by all the competing candidates. As per the Advertisement dated 28.02.2020 (Annexure P-1), which included a condition No.7 (xii), (xiii) and (xv) as per which conditions, the candidates will not be allowed to rectify any mistake in the application form and the application should be submitted with due care and no change in the same will be allowed after submission of the application and no representation in this regard will be entertained by the Office. The said conditions are as under:-

“ xii. The candidate will be responsible for any mistake while online submission of application. The Education recruitment will not responsible.

xiii. While taking help of the Cyber Cafe attendant for online application, the candidates are advised to fill their forms by self. No change can be done after submission of online application and approved and no opportunity will be given. No representation regarding this will be considered by the office.

xv. The decision of the Recruitment Directorate regarding this recruitment will be final and applicable to all.”

8. Learned counsel for the petitioners have not been able to dispute the said fact.

9. Once, as per the Advertisement, no change in the application form could have been allowed, granting of the said permission by public notice dated 13/14.01.2021, was arbitrary and illegal on more than one account.

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10. Firstly, the written test for examination was already held on 10.01.2021. Once, a written examination for the post in question was already held on 10.01.2021, no change in the category could have been allowed by the respondents after the selection process had already been started.

11. Further, the selection is to be made in consonance with the terms and conditions of the Advertisement.

12. A bare perusal of the said conditions reproduced hereinbefore would show that no change in the application form is to be allowed for any purpose. Once the said clause existed in the Advertisement, the change of category being allowed by the respondents vide public notice dated 13/14.01.2021 was arbitrary and illegal and contrary to the provisions of the terms and conditions of the Advertisement.

13. Further, the impugned order dated 19.02.2021 was passed by the respondents keeping in view the various representation received against public notice dated 13/14.01.2021 by the other candidates competing in the said selection. Once, a decision was taken by the highest level to conduct the selection process in terms of the original advertisement, the petitioners cannot raise any grievance keeping in view the settled principle of law noticed hereinafter as the selection has been made as per the terms and conditions of the Advertisement, which have been applied uniformly upon all.

14. As per the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.7677 of 2021 titled as The State of Bihar and others vs. Madhu Kant Ranjan and another, decided on 16.12.2021***, the terms and conditions of the Advertisement are sacrosanct and the same have to be

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complied with under all circumstances. That being so, the terms and conditions of the original advertisement that no change will be permitted in the application form after the same is submitted, has to be complied with by the respondents and the public notice dated 13/14.01.2021, is contrary to the said terms and conditions and therefore, by reconsidering the issue, the respondents rightly withdrew the said public notice dated 13/14.01.2021 by issuing the notice dated 19.02.2021. The relevant paragraph 9 of the judgment is as under:-

“9. As per the settled proposition of law, a candidate/applicant has to comply with all the conditions/eligibility criteria as per the advertisement before the cut-off date mentioned therein unless extended by the recruiting authority. Also, only those documents, which are submitted alongwith the application form, which are required to be submitted as per the advertisement have to be considered. Therefore, when the respondent No.1 – original writ petitioner did not produce the photocopy of the NCC ‘B’ certificate alongwith the original application as per the advertisement and the same was submitted after a period of three years from the cut-off date and that too after the physical test, he was not entitled to the additional five marks of the NCC ‘B’ certificate. In these circumstances, the Division Bench of the High Court has erred in directing the appellants to appoint the respondent No.1 – original writ petitioner on the post of Constable considering the select list dated 08.09.2007 and allotting five additional marks of NCC ‘B’ certificate.”

15. Further, as per the settled principle of law, no change can be allowed in the category once, the said category has been filled by the candidate himself/herself. In the present case, the respondents by public notice dated 13/14.01.2021 allowed the change of the category and that too

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after holding of the written examination. The same is not permissible and the respondents rectified their mistake.

16. As per the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.198 of 2005 titled as J & K Public Service Commission vs. Israr Ahmad and others, decided on 07.01.2005***, no change in the category once applied for, can be done at a later stage. The relevant paragraph 6 of the said judgment is as under:-

“6. We have considered the rival contentions advanced by both the parties. The contention of the first respondent cannot be accepted as he has not applied for the selection as a candidate entitled to get reservation. He did not produce any certificate along with his application. The fact that he has not availed the benefit for the preliminary examination itself is sufficient to treat him as a candidate not entitled to get reservation. He passed the preliminary examination as a general candidate and at the subsequent stage of the main examination he cannot avail the the reservation on the ground that he was successful in getting the required certificate only at a later stage. The nature and status of the candidate who was applying for the selection could only be treated alike and once a candidate has chosen to opt for the category to which he is entitled, he cannot later change the status and make fresh claim. The Division Bench was not correct in holding that as a candidate he had also had the qualification and the production of the certificate at later stage would make him entitled to seek reservation. Therefore, we set aside the judgment of the Division Bench and allow the appeal.”

17. Not only this, the Division Bench of this Court, more than once, has held that no change in the category once applied for, can be allowed in favour of the candidates.



18. Learned counsel for the petitioners places reliance upon the judgments of the Division Bench of this Court in *CWP No. 22753 of 2020 titled as Rumiel vs. State of Haryana and others, decided on 09.02.2021, LPA No.226 of 2022 titled as Sweety Nagar vs. State of Haryana and another, decided on 23.08.2022, LPA No.366 of 2016 titled as State of Punjab and others vs. Kirandeep Kaur and another, decided on 10.03.2016 and CWP No.23185 of 2014 titled as Usha Dhillon vs. State of Haryana and others, decided on 15.12.2014* as well as the judgment of the Coordinate Bench of this Court in *CWP No.11531 of 2018 titled as Manjeet Kaur vs. State of Punjab and others and other connected cases, decided on 24.02.2020.*

18. The judgments, which have been cited by the learned counsel for the petitioners, are not applicable in the facts and circumstances of the present case.

19. It may be noticed that the judgments have been given that in case the candidate is not tech-savy, the chance be given to rectify the mistake. In the present case, in order to ensure that the candidates fulfill the form as he/she wanted, a specific clause has been mentioned in the advertisement itself that no grievance will be entertained on the ground that the mistake has occurred due to form filled by an employee/owner of the cybercafe. Once, the petitioners who are competing for the post of Science Master/Mistress and are graduate, cannot be allowed to contend that they did not check their application form before submitting the same even if, the same was filled in the cybercafe. Hence, the benefit of the said judgments cannot be given to the petitioners keeping in view the specific terms and

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conditions in the advertisement coupled with the settled principle of the law

settled by the Hon'ble Supreme Court of India noticed hereinbefore.

20. Keeping in view the above, no ground is made out for any interference by this Court in the facts and circumstances of the present case qua the notice dated 19.02.2021 (Annexure P-12).

21. Accordingly, all the writ petitions are dismissed.

22. Civil miscellaneous application pending if any, also stands disposed of.

23. A photocopy of this order be placed on the file of other connected cases.

November 25, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes