

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

103+120

LPA-371-2023 (O&M)
Date of decision: 11.01.2024

Kuljit Singh and another

..Appellants

Versus

State of Punjab and others

..Respondents

LPA-1152-2023 (O&M)

Pardeep Kumar

..Appellant

Versus

State of Punjab and others

..Respondents

LPA-93-2024 (O&M)

Vijay Kumar

..Appellant

Versus

State of Punjab and others

..Respondents

CORAM: HON’BLE MS. JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON’BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Yagyadeep, Advocate for the appellants.

Ms. Lavanya Paul, DAG, Punjab.

Mr. Vikas Mohan Gupta, Advocate for respondent No.4
in LPA-1152-2023.

RITU BAHRI, ACTING CHIEF JUSTICE (Oral)

CM-1042-LPA-2023 in LPA-371-2023
CM-2937-LPA-2023 in LPA-1152-2023
CM-224-LPA-2024 in LPA-93-2024

For the reasons stated in the applications, same are allowed and delay in
filing the appeals is condoned.

Main Cases

The aforesaid appeals are being decided by a common judgment, as
common facts and question of law are involved.

The appellants have come up in appeal against the judgment dated
10.01.2023 passed by learned Single Bench whereby the writ petitions filed by the

appellants who are employees of the Boards and Corporations asking the State of Punjab to consider them to participate in the selection and recruitment of the Punjab Civil Services (Executive Branch) from Register-C as per Rule 8 of the Punjab Civil Services (Executive Branch) Rules, 1976, have been dismissed.

Learned Single Bench has referred to a judgment of Division Bench of this Court passed in **Kanwal Preet Singh Sidhu and others vs. State of Punjab and others, 2017(3) SCT 454** where the identical issue was examined by the Coordinate Bench and held that the employees of Boards and Corporations do not fall within the meaning of “State Government Employees” and they are not eligible for recruitment to PCS (Executive Branch) under Register-C. In paragraph 24 to 27, the observation of the Division Bench is as under:-

“24. The expression ‘serving in connection with the affairs of the State of Punjab’ contained in sub-Rule (1) of Rule 15 necessarily means to those persons only who are serving under the State Government. A person can be said to be serving under the Government and in connection with the affairs of a State when his conditions of service are governed under the Rules framed under Proviso to Article 309 of the Constitution. In *The State of Assam and others vs Kanak Chandra Dutta*, AIR 1967 SC 884, the Hon'ble Supreme Court held that “.....A person holding a post under the State was a person serving or employed in a State and under its administrative control. There was a relationship of Master and servant between the State and the person said to be holding a post under it.....” Since conditions of service of the petitioners in PSPCL are admittedly not regulated by any such Rules and there is no relationship of master and servant between such employees and the State of Punjab, they cannot claim themselves to be the persons serving under the State of Punjab.

25. Similarly, the expression 'serving in connection with the affairs of the State of Punjab' necessarily means assignment of the duties in furtherance of the constitutional obligations and responsibilities of a State and which cannot be entrusted to private entities. The sale and supply of electricity power is no longer an exclusive domain of the State though the State may at any time enter into commercial or business ventures and compete with private entities in larger public interest.

26. The question whether the employees of Statutory Boards/Corporations hold civil post under the Union or State can be effectively answered keeping in view the following parameters laid down in one or the other binding precedent:-

- (a) A Corporation/Board has its own separate and independent existence and is a different entity from the State, with its own property and fund;
- (b) It makes little difference if the State holds majority shares of the Corporation and controls its administration by Policy directive or otherwise;
- (c) It also makes hardly any difference if the Corporation adopts

or copies the State Service Rules to govern conditions of service of its employees;

(d) Although the ownership, control and management of the Corporation/Board may, in fact, be vested in the State, yet in the eyes of law the Corporation/Board is its own master and is a separate entity and its employees, therefore, do not hold a civil post under the State.

(e) The only exception can be where the power to create or abolish a post in the Board/Corporation entirely vests in the State and the State pays the holder of such post out of its own funds, that the incumbent of the said post can claim to be the holder of a civil post under the State. Applying these principles to the facts and circumstances of the case in hand, none of the petitioners can be said to be serving under the State.

27. The petitioners cannot claim parity with the employees of Punjab Vidhan Sabha or High Court as both the Institutions are creation of the Constitution. So long as their administrative heads have agreed to the applicability of Punjab Civil Services Rules for the purpose of regulating the conditions of service of their employees, the State is right in urging that the employees of these two organs would fall within the expression of 'State Government Employees' and thus eligible for recruitment to PCS(EB) under 'Register -C'."

There is no judgment cite by learned counsel for the appellants.

Accordingly, we are not inclined to interfere in the judgment passed by the learned Single Bench and the present appeals are dismissed.

Pending application(s), if any, shall also stand disposed of.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

11.01.2024
ashok

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