



CM-13482-CWP-2023 and
CM-13487-CWP-2023 in/and
CWP-10494-2020(O&M)

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CM-13487-CWP-2023

This application has been filed by the applicant/respondent Nos.1 and 2-PSPCL under Section 151 CPC for placing on record the additional reply by way of short affidavit of Er. Sanjay Kumar Kumra, Deputy Secretary/Recruitment, PSPCL, Patiala.

For the reasons mentioned in the application, the same is allowed, subject to all just exceptions. Additional reply by way of short affidavit of Er. Sanjay Kumar Kumra, Deputy Secretary/Recruitment, PSPCL, Patiala is taken on record.

Main case

1. The instant petition has been filed by the petitioners claiming the following relief:-

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(ii) *To issue a writ in the nature of Certiorari for quashing the Impugned action of the respondents whereby they are considering the candidatures of the candidates in reserved categories like EWS (General) for the post of Junior Engineer (Electrical) who do not possess the requisite reservation related certificate before last date of online submissions of application in terms of Note 4 of Clause 4 of the advertisement bearing CRA No.294/19, dated 14.08.2019/ 05.09.2019 (Annexure P-1) in an illegal, arbitrary and unjustified manner in complete violation of the terms and condition of the advertisement, which is prejudicial to the rights of the candidates like petitioner No. 1 who were possessing the requisite reservation related certificate well before the last date of submission of online applications i.e. 09.11.2019 and to hold the action of the respondents to be bad, since it is breach of the settled proposition of law to the effect that any appointment made in violation of the terms and conditions of the advertisement cannot sustain*



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in view of the law laid down in on Neelam Pathak Versus State of Punjab, 1997(1) SCT 770 DB as well as Ashok Kumar Sharma Versus Chander Shekhar, 1993(2) SCT 208 SC.

(iii) *To issue a writ in the nature of Certiorari for quashing the Impugned Clause 2 read with Clauses 9.8 and 5.9 of the Advertisement bearing CRA No.294/19, dated 14.08.2019/ 05.09.2019 (Annexure P-1), whereby respondent-Corporation is considering the candidature of such candidates who have passed the Punjabi at Matriculation level or its equivalent and requisite essential qualification for the post of Junior Engineer (Electrical) respectively after the cut-off date of submission of online applications i.e., 09.11.2019 and upto the date of document checking in an illegal and arbitrary manner and in violation of well settled law especially Ashok Kumar Sonkar Versus Union of India and others, 2007(4) SCC 54, Ashok Kumar Versus Haryana Staff Selection Commission, Haryana 2002 (3) SCT 572, Harmehak Narula Versus Panjab University, Chandigarh and another 2012 (14) SCT 179, Dr. Arunpreet Kaur and others Versus Managing Director, Punjab Health Systems Corporation, Phase VI, Mohali and others, 2012 (4) SCT 808 wherein it has been held that the cut off date for eligibility is either what is prescribed under the advertisement or it is the last date of the submission of form, consequently, the open ended date for submission of certificates cannot sustain and gives a window of arbitrariness at the hands of the respondents.*

(iv) *To issue a writ in the nature of Mandamus directing the respondents to consider the claim of the petitioners for appointment for the post of Junior Engineer (Electrical) in pursuance of the Advertisement bearing CRA No.294/19, dated 14.08.2019/ 05.09.2019 (Annexure P-1), strictly in accordance with the merit and eligibility amongst the candidates who possesses the requisite qualification for the post of Junior Engineer (Electrical) well before the last cut-off date of*



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submissions of online applications i.e., 09.11.2019 and consequently to offer the appointments to the petitioners in accordance with their final merits and eligibility in their respective categories.

(v) *Further issue a writ in the nature of Mandamus directing the respondents to fill up 21 remaining vacant posts under category of Ex-Servicemen (General) and other reserved categories like Freedom Fighter etc. amongst the General Category candidates by de-reserving the same as requisite candidates in the said categories are unavailable, as per the provisional merit list dated 04.03.2020 (Annexure P-7) issued by the respondent-Corporation in view of the law laid down by **Deepa Gourang Murdeshwar Katre Versus The Principal, V.A.V. College of Articles & Ors, 2007(2) SCT 181 SC** and in **Babu Ram Versus The Punjab Pollution Control Board Road, Patiala, 1999(4) SCT 219** and **C.W.P. No. 24383 of 2016. Court On Its Own Motion Versus U.T. Chandigarh and others** decided on 23.12.2016.*

(vi) *It is further prayed that during the pendency of present writ petition the respondent-Corporation be restrained from issuance of offer of appointments by preparing the final merit list by considering the candidature of candidates who do not possess the minimum requisite qualification/certificates before the last date of submissions of online application forms, in the interest of justice, equity and fair play."*

2. It has been stated by the learned counsel for the petitioner that petitioner Nos.2 and 3 have already withdrawn from the case, vide order dated 13.12.2021, as they have already been appointed to the post of Junior Engineer (Electrical).

3. In the additional reply which has been taken on record along with CM-



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In light of opinion rendered by Advocate General Punjab-cum-Senior Standing Counsel PSPCL, Whole Time Directions, PSPCL in its 263rd meeting dated 07.05.2022, decided to consider the candidature of those candidates (except EWS category), who produced their reservation related certificates issued after last date of submission of online application i.e. 09.11.2019. Further, in view of decision taken by Whole Time Directors, PSPCL, appointment letters are issued to the eligible candidates after considering on selection panel. The decision of Whole Time Directors, PSPCL dated 07.05.2022, was later ratified by Board of Directors, PSPCL in its 96th meeting held on dated 21.09.2022. A copy of the decisions of the Whole Time Directors, PSPCL dated 07.05.2022 and Board of Directors, PSPCL dated 21.09.2022 are collectively appended herewith as Annexure R-1/1.

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D. RE: THE DIRECTION TO APPOINT THE PETITIONERS ON THE JUNIOR ENGINEER (ELECTRICAL).

Qua the said prayer of the petitioners it is submitted that earlier petitioner Nos.2 & 3 (Sh. Jagdeep Singh S/o Sh. Gurtej Singh and Sh. Anmol S/o Sh. Sushil Kumar respectively) who withdrew their case through CM 17833 of 2021 already been considered on selection list for the post of JE/Electrical against CRA 294/19 in order of the merit. Furthermore, it is pertinent to mention here that qua the present situation, Petitioner No.1 namely Sh. Jagdeep Mittal S/o Sh. Mohal Lal Mittal is lower in merit so he couldn't be considered for selection as per his merit.

8. *That in view of the facts and circumstances mentioned hereinabove, the instant writ petition is devoid of*



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any merit and thus, is liable to be dismissed."

4. Learned counsel for respondent Nos.1 and 2-PSPCL submits that in view of the stand taken, as has been reproduced above, further action shall be taken by the respondent-Corporation in accordance with law.
5. In view of the above, the instant petition has been rendered infructuous and the same is disposed of as such.

31.07.2024
renubala

(NAMIT KUMAR)
JUDGE

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