

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-596-2023 (O&M)
Date of decision:- 20.02.2024

Sourabh and others
...Appellant(s)

Versus

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

LPA-820-2023 (O&M)

Sarbjeet Kaur
...Appellant(s)

Versus

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

LPA-930-2023 (O&M)

Simaranjeet
...Appellant(s)

Versus

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

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA, ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Mr. H.C. Arora, Advocate,
for the appellants in LPAs-596 & 820-2023.

None for the appellant in LPA-930-2023.

Mr. Saurav Khurana, Additional Advocate General, Punjab.

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G.S. SANDHAWALIA, A.C.J. (ORAL)

1. This judgement shall dispose of three appeals arising out of the common order dated 25.04.2023 passed by the learned Single Judge dismissing CWP-19643-2018 titled *Sourabh and others Vs State of Punjab and others* and two other connected writ petitions.

2. The prayer sought as such in the three writ petitions which had been declined by the learned Single Judge was for quashing the order dated 05.07.2018 passed by the Principal Secretary, Government of Punjab, Department of Sports and Youth Services rejecting the demand of the writ petitioners for de-reservation of 67 posts of the Sportspersons (General) Category. The same had been prayed for in terms of the provisions contained in Rule 3 of the Punjab Recruitment of Sportsmen Rules, 1988 (in short the Rules) on the ground that they had been carried forward for three subsequent occasions, but had not been filled up on account of non-availability of the eligible candidates.

3. The learned Single Judge came to the conclusion that vide the initial advertisement No. 4 dated 27.11.2015 (Annexure P-1), 556 posts of Clerks and 58 posts of Clerk-cum-Date Entry Operators had been advertised. On being increased to 2715 posts of Clerks, 98 posts were reserved for sports category. The claim of the writ petitioners was that 67 posts reserved had remained vacant due to non-availability of the eligible candidates. The writ petitioners being general candidates had, thus, given a request dated 04.10.2017 (Annexure P-8), once the result had been declared in December, 2016. On the inaction as such of the State of Punjab, the writ petitioners had chosen to file CWP-9178-2018 in which directions were issued vide order dated 03.05.2018 to consider and decide the above-said representation. Resultantly, their claim was rejected.

4. A perusal of the order dated 05.07.2018 would go to show that the stance as such of the Director Sports-cum-Special Secretary Sports and Superintendent, Department of Sports had also been taken into consideration that there was no waiting list as such which even otherwise had a life span of

six months only and the candidates had no locus-standi. Eventually, the fact weighed with the learned Single Judge was also that no candidates lower in merit than the writ petitioners had been appointed and rule as such provided for conversion if the conditions are fulfilled and that the stage had long gone by with a lapse of time. In such circumstances, the writ petitions were dismissed.

5. As noticed, the candidates themselves as such are to be blamed in as much as the result had been declared in December, 2016 and they took ten months to make the request as such. A perusal of the public notice dated 18.06.2016 (Annexure P-2) which was issued in continuation of Advertisement No. 4 of 2015 (Annexure P-1) would also go to show that in view of the requisitions received from various departments before 23.05.2016, the number of posts of Clerk under the sportspersons category were increased. Advertisement No. 04 of 2016 (Annexure P-21) would go to show that on account of the requisitions received from different departments, applications were invited for 74 posts of Clerk and 13 posts of Steno-Typist under sportspersons category. However, in the subsequent public notice dated 27.09.2016 (Annexure P-22), the posts of Clerk were reduced to 49 and that of Steno-Typist to 14 under the said category. It is, thus, apparent that the number of posts were varying as requests had been received from various departments. A perusal of the paper book would go on to show that on 08.11.2021, as has been noticed by the Single Judge that the 67 reserved posts were again advertised as per information given by the State counsel. Resultantly, affidavit dated 06.04.2023 was filed which reads as under:-

“4. That in compliance of the above orders of the Hon’ble High Court it is submitted that after the completion of recruitment process for Advertisement No. 4 of 2015 dated 27.11.2015 (Annexure P-1) and after the receipt of

fresh requisitions from the different departments including 67 posts of Sportsman (General) category had issued the Advertisement No. 4 of 2016 dated 01.09.2016 for the recruitment of 1883 posts of Clerk and Clerk-cum-Data Entry Operators. The copy of the Advertisement No. 4 of 2016 is Annexed as Annexure R-1 for kind perusal of the Hon’ble High Court.”

6. Thus, it would be clear that a fresh recruitment process had been started on 01.09.2016 well before the request was made on 04.10.2017 and before the first of the writ petitions were filed in August, 2018.
7. A perusal of the Rule which was also relied upon by the learned Single Judge would go to show that the word ‘may’ had been used for filling up the vacancies from other sources in accordance with the Rules in case the reserved vacancies remained unfilled for non-availability of sportspersons eligible for recruitment under the Rules. The right as such to such conversion should have been exercised at the earliest and the appellants having not chosen to agitate for their grievances at the earliest lost out in the long run. It is settled principle that the candidates only have a right of consideration and no absolute right of appointment.
8. In such circumstances, the findings as such recorded by the learned Single Judge do not suffer from any infirmity which may warrant any interference by this Court.
9. The appeal being meritless, accordingly, stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

20.02.2024
Amodh Sharma

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