



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 14778 of 2018

Date of Decision: 08.11.2024

Narinder Singh

....Petitioner

vs.

Vice Chancellor, Panjab University, Chandigarh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Ms. Anjali Khosla, Advocate
for the petitioner

Mr. Subhash Ahuja, Advocate
for respondents No. 1 and 2

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of appointment of respondent No. 3 on the post of Assistant Professor in the Department of Mathematics made pursuant to advertisement No. 7/2013.

2. The respondent-Panjab University vide advertisement No. 7/2013 invited applications for the post of Assistant Professor in the Department of Mathematics. The petitioner as well as respondent No. 3 participated in the selection process. They appeared for interview on 30.06.2014 in the Department of Mathematics. Respondent No. 3- Sarita



Pippal daughter of Bhagwan Singh Pippal came to be selected against the post reserved for Scheduled Caste category.

3. Counsel for the petitioner submits that petitioner is assailing selection of respondent No. 3 on the ground that she belongs to State of Uttar Pradesh and a Scheduled Caste certificate issued by State of Uttar Pradesh could not be used for appointment in the Panjab University. The benefit of Scheduled Caste category is available on the basis of birth. A candidate belonging to one State cannot claim benefit of Scheduled Caste category in another State. As per policies framed by the State of Punjab, Scheduled Caste category certificate issued by another State cannot be considered for any post in the State of Punjab. The people born in State of Punjab can claim benefit of Scheduled Caste category.

She in support of her contentions relies upon judgment of Supreme Court in **Marri Chandra Shekhar Rao vs. Dean, Seth G.S. Medical College and others, (1990) 3 Supreme Court Cases 130** wherein it has been held that benefit of Scheduled Caste category is confined to parent State only. A candidate belonging to one particular State cannot claim benefit of Scheduled Caste category in another State even though in the said State, the caste to which applicant belongs has been declared as Scheduled Caste category.

4. Per contra, Mr. Subhash Ahuja, Advocate submits that respondent is neither Central nor State University and is following guidelines with respect to reservation framed by University Grants Commission. It has adopted reservation policy of Central Government.



This was the reason why the applications were invited from candidates across the country.

5. I have heard counsel for the parties and perused the record with their able assistance.

6. From the perusal of record, it is evident that Senate and Syndicate of Panjab University have deliberated on the issue of reservation and decided to follow University Grants Commission guidelines. In the meeting dated 02.08.2008 of Standing Committee constituted by Vice Chancellor in terms of University Grants Commission letter dated 01.07.2004, it was considered that though Panjab University was established by an Act of the Punjab State Legislature, however, Punjab Reorganization Act, 1966 has empowered the Central Government to oversee affairs of the University and the University being an inter-State University has 60% of its funding from Central Government through the Ministry of Home Affairs/UT Chandigarh. The State Reorganization Act being a Central Act, the University as it exists today has to be treated as a creation of Central Act. The relevant extracts of minutes of the meeting dated 02.08.2008 are reproduced as below:-

“ITEM 1

Considered the following points raised by Shri Kehar Singh, in his letter dated 6.6.2008(Appendix I)

- (i) Special drive for filling up (Back-log) posts of SC/ST categories in the University.*
- (ii) To notify the reservation policy being implemented for SC/ST categories.*



(iii) To introduce 'Roster Point System' in pursuance of the University Grants Commission letter dated 13.11.1007(sic).

(iv) Strict compliance of SC/ST reservation policy.

The Vice-Chancellor apprised the Committee that the University was doing its best for implementing the reservation policy as approved by the Government of India. Even certain candidates from the reserved categories had been selected against the open posts. The Vice-Chancellor said that the U.G.C. vide its letter dated 26th September 2007 had directed the University to implement Reservation Policy for other Backward Classes (OBCs), which was accepted by the Syndicate in toto. However, on the observations made by the Senate, a clarification was sought from the Government of India/U.G.C, inter alia, to clarify about the percentage of reservation for OBCs to be adopted by the Panjab University keeping in view the unique status of the University as it was neither Central nor State University. Different letters were written to the Ministry of Human Resource Development, Government of India. The Ministry of Human Resource Development vide its letter dated 12th June 2008, inter alia, stated that the Central Educational Institutions (Reservation in Admissions) Act, 2006 defines, inter alia, that a Central Educational Institution means a University established or incorporated by Central Act. Although, the Panjab University was established by an Act of the Punjab Legislature, the Punjab Reorganization Act, 1966, has empowered the Central Government to oversee the affairs of the University and the University being an Inter-state University has 60% of its funding by the Central Government through the Ministry of Home Affairs/UT of Chandigarh. The Punjab State Reorganization Act, being a Central Act, the University as it exists today has to be treated as a creation of a Central Act and,



therefore, attracts the provisions of Section 2(d)(i). Therefore, Panjab University is bound to implement the policy of reservation laid down by the Parliament under the CET Act 2006.”

7. The recommendations of Syndicate contained in Item C-9 of meeting dated 20.09.2015 also make it clear that respondent has followed rules of Central Reservation Policy. The relevant extracts of Syndicate meeting dated 20.09.2015 and decision of Senate is reproduced as below:-

“X. *The recommendation of the Syndicate contained in Item C-9 on the agenda was read out, viz.*

C-9. That the recommendations of the Committee dated 19.08.2015, to check the Roster (regarding reservation of teaching positions) and see whether it is in accordance with the guidelines/policies of the Government of India/UGC issued from time to time, be approved.

(Syndicate meeting dated 20.9.2015 Para 9)

Dr. Ajay Ranga stated that, besides the recommendations of the Committee, while preparing the Roster System, the rules of Central Reservation Policy (Government of India) and the guidelines of DOPT should be strictly followed. Secondly, the Committee has talked about only the permanent employment in the University, whereas in the Central Government notifications and DOPT guidelines, it has clearly been mentioned that separate Roster System be implemented for permanent employment and for all kinds of temporary employment, irrespective of whether it is temporary, ad hoc, guest faculty, part-time, etc., a separate Roster System is to be implemented. Therefore, he urged that this should be added in the guidelines and the Roster should be prepared accordingly.

The Vice-Chancellor stated that his suggestion is this regard is that they should form a small Committee, get it



recommended and place the same before the Syndicate and then install it, instead of doing it in an ad hoc manner. Considering that they have a large fraction of temporary employees in the University and it stands to reason that when they have a large number of temporary employees in the University, the temporary employment should also reflect the reservation. They would have it process. He should be extended all kind of help and they would have it processed as quickly as possible.

This was agreed to.

RESOLVED: *That the recommendation of the Syndicate contained in **Item C-9 on the agenda**, be approved.”*

8. From the perusal of aforesaid documents, it is evident that Panjab University is following Central Reservation Policy. The petitioner has placed on record few documents disclosing that with respect to percentage of reservation, University Grants Commission and Panjab University have adopted State policy, however, there is nothing on record disclosing that Panjab University has ever followed Punjab Government policy with respect to eligibility of a Scheduled Caste candidate. The State of Punjab has excluded candidates belonging to other States though they fall within definition of Scheduled Caste category in the State of Punjab, however, there is no document available on record disclosing that Panjab University has followed said policy of the State Government.

9. There is another aspect of the matter which needs to be taken care of. The advertisement in question was issued in 2013 and respondent No. 3 was selected in 2014. The instant petition was filed in 2018. The selected candidate is working with the University since her joining on 25.07.2014. A period of more than ten years from the date of her appointment has passed away.



10. A five Judge bench of Supreme Court in **Sivanandan C.T. and others vs. High Court of Kerala and others, 2023 SCC OnLine SC 994** though held that appointment of Judicial Officer by Kerala High Court was bad in law, however, did not disturb appointment on the ground that already appointed officers have already served for nearly six years and gained experience. It would deprive the State and its citizens of the benefit of experienced judicial officers. The relevant extracts of the judgment read as:

“60. The following are our conclusions in view of the above discussions:

- (i) The principles of good administration require that the decisions of public authorities must withstand the test of consistency, transparency, and predictability to avoid being termed as arbitrary and violative of Article 14;*
- (ii) An individual who claims a benefit or entitlement based on the doctrine of substantive legitimate expectation has to establish the following : (i) the legitimacy of the expectation; and that (ii) the denial of the legitimate expectation led to a violation of Article 14;*
- (iii) A public authority must objectively demonstrate by placing relevant material before the court that its decision was in the public interest to frustrate a claim of legitimate expectation;*
- (iv) The decision of the High Court of Kerala to apply a minimum cut-off to the viva voce examination is contrary to Rule 2(c)(iii) of the 1961 Rules.*
- (v) The High Court's decision to apply the minimum cut off marks for the viva voce frustrates the substantive legitimate expectation of the petitioners. The decision is arbitrary and violative of Article 14.*
- (vi) In terms of relief, we hold that it would be contrary to public interest to direct the induction of the petitioners*



into the Higher Judicial Service after the lapse of more than six years. Candidates who have been selected nearly six years ago cannot be unseated. They were qualified and have been serving the district judiciary of the state. Unseating them at this stage would be contrary to public interest. To induct the petitioners would be to bring in new candidates in preference to those who are holding judicial office for a length of time. To deprive the state and its citizens of the benefit of these experienced judicial officers at a senior position would not be in public interest.”

11. In the wake of above discussion and findings, this Court is of the considered opinion that instant petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

08.11.2024
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:		No