

206 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-26320-2016
Date of Decision: 12.02.2024

RAJNISH ...Petitioner
Vs.
STATE OF HARYANA AND OTHERS ...Respondents

2. CWP-14919-2016
ARCHANA PANCHAL ...Petitioner
Vs.
STATE OF HARYANA AND OTHERS ...Respondents

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Pardeep Sehrawat, Advocate for
Mr. Vivek Goyal, Advocate
for the petitioner in CWP-26320-2016
for respondent No.4. in CWP-14919-2016.

Mr. Anil Kumar Sharma, Advocate
for the petitioner in CWP-14919-2016.

Mr. Saurabh Mohunta, DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. By this order, two petitions details of whom have been given in the heading are being decided. CWP-26320-2016 titled Rajnish Vs. State of Haryana and others has been filed challenging the order dated 07.12.2016 (Annexure P-13) by which the services of the said petitioner were terminated on the ground that the petitioner who has been appointed under the quota of “Special Backward Class” could not have been appointed.

2. CWP-14919-2016 titled as Archana Panchal Vs. State of Haryana and others has been filed by a candidate who has challenged the appointment of the petitioner in CWP-26320-2016 so as to oust her from the job and to claim the said post.

CWP-26320-2016 and other connected case 2024:PHHC:019265 2

3. As per the facts which have come on record, a notification was issued by the Ministry of Social Justice and Empowerment vide gazetted notification No. 63 dated 04.03.2024 (Annexure P-2) wherein, in the State of Haryana, certain castes were included in the Special Backward Classes which were to be given the benefit of reservation.

4. In the month of June 2014, an advertisement (Annexure P-5) was issued for appointment to the post of 'Anganwadi Worker' and in the said advertisement one post was to be filled up in Village Barna, Tehsil Thanesar, District Kurukshetra, which was reserved for the Special Backward Class. The petitioners in both the petitions were competing for the said post. After the interview, the petitioner-Rajnish was declared successful candidate and she was given appointment order on 01.08.2014 (Annexure P-7) on which post she joined and is still working.

5. The grant of reservation for the Special Backward Class was quashed by the Hon'ble Supreme Court of India vide order dated 12.04.2016 (Annexure P-8) and while passing the said order, any candidate who had already been selected and appointed by giving the benefit of reservation as a Special Backward Class, was protected.

6. After passing of the said order by the Hon'ble Supreme Court of India, keeping in view the claim being raised by the petitioner Archana Panchal, the impugned order dated 07.12.2016 (Annexure P-16) was passed terminating the services of the petitioner-Rajnish on the ground that the appointment given by extending the benefit of reservation under Special Backward Class, is liable to be set aside as the said reservation has been found to be invalid.

CWP-26320-2016 and other connected case 2024:PHHC:019265 3

7. Learned counsel for the petitioner-Rajnish who has filed the CWP-26320-2016 contends that once even while setting aside the reservation extending in favour of the Special Backward Class, the appointment already made have been protected by the Hon'ble Supreme Court of India. Therefore, the petitioner's appointment needs to be protected and the impugned order of termination dated 07.12.2016 (Annexure P-13) is liable to be set aside on this ground only.

8. Learned counsel for the petitioner-Archana Panchal who has filed CWP-14919-2016 submits that once the post of Anganwadi Worker (Annexure P-5) was advertised in the Backward Class, giving the benefit of Special Backward Class in favour of the candidate so as to appoint her as a Anganwadi Worker is bad.

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

10. Though, it has come on record that the post for which both the petitioners are competing was reserved for the backward classes, the said post was filled up from a Special Backward Class category candidate keeping in view the reservation which was provided for the said category in the year 2014. After the appointment of the petitioner, the said reservation in favour of the Special Backward Class category was set aside being invalid, but, while setting aside the said reservation, Hon'ble Supreme Court of India protected the candidates who had already been given appointment. That being so, termination of the services of the petitioner vide order dated 07.12.2016 (Annexure P-13) is contrary to the protection provided by the Supreme Court of India to the candidates who have already been selected

CWP-26320-2016 and other connected case 2024:PHHC:019265 4

under this reservation of the Special Backward Class.

11. Learned counsel for the State has not been able to point out as to why, action has been taken against the petitioner, once the beneficiary of the reservation under Special Backward Class who had already been appointed, has been protected by the Supreme Court of India. Keeping in view the above, the order dated 07.12.2016 (Annexure P-13) is set aside. As per the interim order granted by this Court, to the petitioner-Rajnish, she is continuing her service since her date of appointment and is in service for the last 10 years, hence the petitioner will be allowed to continue in service.

12. The claim of the petitioner in CWP-14919-2016 that the benefit of reservation under the Special Backward Classes could not have been granted, so as to oust the petitioner-Rajnish from service cannot be accepted in view of the protection granted by the Hon'ble Supreme Court of India while setting aside the reservation made in favour of the Special Backward Classes.

13. In view of the above, CWP-26320-2016 is allowed and the impugned order is set aside and CWP-14919-2016 is dismissed.

14. A photocopy of the order be placed on the file of other connected case.

(HARSIMRAN SINGH SETHI)
(JUDGE)

12.02.2024
kv

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