



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CWP- 2617-2017 (O&M)
Date of Decision:28.10.2024

SATPAL SHARMA AND OTHERS ...Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS ...Respondents

2. CWP-11359-2014 (O&M)

HARWINDER SINGH & ORS ... Petitioners
V/S

STATE OF PUNJAB & ANR ... Respondents

3. CWP-14481-2015

NARINDER PAL SINGH AND ORS ... Petitioners
V/S

STATE OF PUNJAB & ANOTHER ... Respondents

4. CWP-2618-2017

KULBIR SINGH AND ANR. ... Petitioners
V/S

STATE OF PUNJAB AND ORS. ... Resondents

5. CWP-3054-2017

JASWANT KAUR & ANOTHER ... Petitioners
V/S

STATE OF PUNJAB & ORS ... Respondents

6. CWP-3173-2017

HARBHAGWAN SINGH AND ORS. ... Petitioners
V/S

STATE OF PUNJAB AND ORS. ... Respondents

7. CWP-3192-2017

HARWINDER SINGH AND ORS. ... Petitioners
V/S

STATE OF PUNJAB AND ORS. ... Respondents



8.	CWP-3476-2017
SUKHBIR SINGH & ORS V/S STATE OF PUNJAB AND ORS	... Petitioners
9.	CWP-3950-2017
SHUBJIT KAUR V/S STATE OF PUNJAB AND ORS.	... Petitioner ... Respondents
10.	CWP-2547-2017
SIMARJIT KAUR & OTHERS V/S STATE OF PUNJAB & ORS	... Petitioners ... Respondents
11.	CWP-18153-2019
PUSHPINDER KAUR AND OTHERS V/S STATE OF PUNJAB AND OTHERS	... Petitioners ... Respondents
12.	CWP-20980-2019
GAGANDEEP SINGH AND ORS. V/S STATE OF PUNJAB AND ORS.	... Petitioners ... Respondents
13.	CWP-21949-2019(O&M)
SONU KUMAR AND ORS V/S STATE OF PUNJAB AND ORS	... Petitioners ... Respondents
14.	CM-13823-CII-2019 in COCP-1588-2019
KANWARMANWANT SINGH AND ORS V/S KRISHAN KUMAR AND ANR	... Petitioners
15.	CM-13780-CII-2019 IN COCP-1589-2019
SUNIL MIROK AND ORS V/S KRISHAN KUMAR AND ANR	...Petitioners ... Respondents



16.	CM-13781-CII-2019 IN COCP-1590-2019
RADHEY SHAM AND ANR V/S KRISHAN KUMAR AND ANR	... Petitioners
17.	CM-13824-CII-2019 IN COCP-1591-2019
SURAJ PRAKASH AND ANR V/S KRISHAN KUMAR AND ANR	... Petitioners ... Respondents
18.	CM-13825-CII-2019 IN COCP-1592-2019
HARPREET KAUR AND ORS V/S KRISHAN KUMAR AND ANR	... Petitioners ... Respondents
19.	CM-13776-CII-2019 IN COCP-1600-2019
AMARJIT SINGH AND ORS V/S KRISHAN KUMAR AND ANR	... Petitioners ... Respondents
20.	CM-13779-CII-2019 IN COCP-1601-2019
PARMINDER KAUR AND ORS V/S KRISHAN KUMAR AND ANR	.. Petitioners ... Respondents
21.	CM-13820-CII-2019 IN COCP-1602-2019
HARPAL SINGH AND ORS V/S KRISHAN KUMAR AND ANR	... Petitioners ... Respondents
22	CM-13726-CII-2019,CM-13727-CII- 2019,CM-13728-CII-2019 IN COCP-1603-2019
SUNIL KUMAR AND ANR V/S KRISHAN KUMAR AND ANR	... Petitioners ... Respondents



23. CWP-27547-2019 (O&M)

SUKHVEER KAUR AND ORS ... Petitioners
V/S
STATE OF PUNJAB AND ANR ... Respondents.

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. D.S. Patwalia, Advocate with
Ms. Sehar Navjeet Singh, Advocate for the petitioner(s)
in CWP-3192-2017.

Ms. Alka Chatrath, Advocate with Mr. Nishant Maini, Advocate
and Mr. Ratik Kapur, Advocate for the petitioners
in CWP-2617, 3054-2017, 20182-2018 and 20968-2020.

Mr. Gaurav Rana, Advocate for the petitioner(s)
in CWP-3192-2017.

Mr. R.C. Sharma, Advocate for the petitioners
in CWP-2618, 3173, 3476 and 3950-2017.

Mr. Vishal Sharma, Advocate for the petitioner
in CWP -18153-2019.

Mr. Shreesh Kakkar, Advocate for Mr. Kapil Kakkar, Advocate
for the petitioner(s) in CWP-2547-2017.

Mr. Sukhdev Kamboj, Advocate for the petitioner(s)
in CWP-20980, 21949 and 27547-2019 and for the applicants in
in contempt petitions.

Mr. Charanpal Singh Bagri, Advocate with
Dr. Gurjit Kaur Jassar Bagri, Advocate
for the petitioner(s) in CWP-11359-2014 and 14481-2015.

Mr. Satnam Preet Singh Chauhan, DAG, Punjab

Mr. G.S. Bal, Sr. Advocate with
Mr. Dilshad S. Gill, Advocate and
Ms. Gurneet Kaur, Advocate for the private respondents
in CWP 2617-2017.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present bunch of petitions, the question of law, which has
been raised is whether, upon the change of merit list, the candidates can be
ousted from the service after their appointment especially when, the posts



exist with the department to accommodate them coupled with the fact that they have not only served the department for a period of about one decade but have also become overage, as of now to compete for the said post in future.

Certain facts needs to be noticed for the correct appreciation of the issue in hand.

The respondents-State had issued an advertisement No.1 of 2008 wherein 244 PTI posts were advertised. The petitioners competed for the said posts and were ultimately selected and given appointments in the year 2009. At the time of the selection, 168 candidates had been appointed against 244 advertised posts. After the appointment, the services of the petitioners were also regularised.

Thereafter, certain candidates who were claiming eligibility on the basis of the higher qualification than the one prescribed in the advertisement, raised grievance before this Court qua non-consideration of their claim for the post of PTIs as advertised vide advertisement issued in the year 2008. Ultimately, the issue came to be decided and the candidates having the higher qualifications, were also found to be eligible and it was directed that candidates having higher qualifications were eligible to be considered against 244 posts of PTI, which were advertised.

Keeping in view the fact that the candidates with the higher qualifications were made eligible, the respondents revised the merit list and after the issuance of the revised merit list, the petitioners, who had already been selected and appointed, and their services had already been regularised/confirmed, were sought to be ousted from service on the ground that their merit has gone down so as to accommodate the candidates, who



came within the zone of selection for appointment, who had earlier been ignored on the ground that they did not possess the qualification as prescribed in the advertisement even though they were having higher qualification.

Out of 168 earlier selected candidates, 137 candidates were found to be beyond the selection zone and their services were sought to be terminated. These candidates, who had already worked sufficiently long, approached this Court by filing the present writ petition and while issuing notice of motion, interim order was granted in their favour, due to which they are still continuing in service as of now.

As of now, the said candidates have rendered more than 15 years of service and have now become overage to compete for the said post again even if the same are advertised by the State of Punjab now, candidates, who became eligible on the basis of higher qualification, were not appointed on the ground that the candidates, whose services were sought to be terminated, had been granted interim order by this Court. The claim in the certain petitions out of the present bunch is that once, candidates lower in merit are continuing in service, in view of the interim order passed by this Court, they should be appointed on the post in question.

In order to resolve the controversy, the respondents-State was directed to submit before this Court, as to how many posts out of 244 which were advertised are still lying vacant. As per the affidavit, which has been filed by the State, 40 posts out of 244 advertised are still lying vacant and same were not be filled up as the State stopped giving appointments keeping in view the filing of the present petitions, wherein, interim orders were granted in favour of the candidates, whose services were sought to be



terminated and they are continuing in service as of now.

Learned counsel appearing on behalf of the petitioners submits that all the petitioners i.e. whose services are sought to be terminated and the petitioners who have raised grievance for non-appointment despite being higher in merit, can be accommodated against the total 244 advertised posts and the respondents-State should not have any objection in accommodating all the petitioners.

Learned counsel for the respondent-State submits that there is no difficulty in adjusting the petitioners but, there are certain candidates, who in the revised list are higher in merit than either of the petitioners, i.e. whose services are sought to be terminated on the ground that their selection is beyond the zone of the selection and as well as the petitioners, who are seeking the appointment on the basis of revised merit list. Hence, the said candidates, who are higher in merit than the petitioners will also claim appointments once the petitioners are accommodated.

I have heard learned counsel for the parties and have gone through the record carefully.

With regard to the contention of learned Senior counsel for the petitioners that the petitioners, who were appointed in the year 2009 and they were confirmed but later on, on the basis of revised merit list, their services were sought to be terminated, it may be noticed that all 244 posts of PTI, which were advertised, have not been filled up by the respondents even as of now and as only 204 candidates are working, which include 137 petitioners, whose services are sought to be terminated on the ground that



their merit has gone down in the revised merit list. Once all 244 posts have not been filled up and there are 40 posts which are still lying vacant, the question of terminating the services of the petitioners, who are already working does not arise. The said termination can only be done in case, any candidate, who is higher in merit is pressing for his appointment on the basis of the revised merit list and no post is lying vacant. As of now, there are only 40 candidates, who are before this Court, pressing their claim for appointments on the basis of the revised merit list. Once, 40 posts are already lying vacant and there are only 40 candidates, who have come to this Court raising a grievance for their non-appointments on the basis of revised merit list, terminating the services of already selected candidates will serve no purpose and rather, it will create hardship for a candidate, to be ousted from service only on the basis of revised merit list and that too after rendering more than 15 years of service.

Further, as per judgment of Hon'ble Supreme Court of India in Civil Appeal No. 4088 of 1991, decided on 11.10.1991 titled as Ashok alias Somanna Gowda and another vs. State of Karnataka by its Chief Secretary and others, it has been held that where on the basis of the revised merit list, no candidate, who is higher in merit has raised the claim and the selection is old, the candidates, who are before the Court, should be accommodated in case they can be. The relevant paragraph No.3 of the judgment is as under:-

“We, therefore, allow the appeal and direct the respondents to give appointment to the appellant Ashok alias Somanna Gowda on the post of Asstt. Engineer (Civil) and appellant Rajendra on the post of Asstt. Engineer (Mech.) in the Public Works Department within a period of two months of the communication of this order in case the appellants are found suitable in all other respects according to the Rules. Learned counsel appearing on behalf of the State of Karnataka pointed out that there are many other candidates who had secured much higher marks



than the appellants in case the above criteria is applied for selection. In view of the fact that appointments under the impugned Rules were made as back as in 1987 and only the present appellants had approached the Tribunal for relief, the case of other candidates cannot be considered as they never approached for redress within reasonable time. We are thus inclined to grant relief only to the present appellants who were vigilant in making grievance and approaching the Tribunal in time. Learned counsel for the State also submitted that the State Government has already framed new rules, and as much we do not find it necessary to quash the Rules under which the present selections were made as they are no longer in existence. No order as to costs."

In the present case, except the petitioners, who are less than 40 in numbers, have raised the claim for appointments on the basis of revised merit list. No other candidate has raised the claim for appointment to the post of PTI on the basis of the revised merit list, though the same was issued as far back as in the year 2015. In case, if a candidate has not claimed the benefit on the basis of the revised merit list for a period of 09 years, he can not be allowed to raise the claim now so as to oust the candidate who has served the department for more than 15 years.

Not only this, as per the judgment passed by a Coordinate Bench of this Court in CWP No. 12835 of 2012, decided on 26.04.2014, titled as **Sahil Aggarwal vs. State of Punjab and others**, it has already been held that once the posts out of the advertised post are still lying vacant, all the petitioners can be accommodated against the said advertised posts, the services of the already serving candidates should not be dispensed with especially when, no claim has been made qua the appointment on the basis of revised merit list apart from the petitioners before the Court.



By placing reliance upon *Sahil Aggarwal's case (supra)*, it is directed that as all the petitioners can be accommodated against 244 advertised posts, their services be not dispensed with and the petitioners, who are before this Court claiming appointments on the basis of revised merit list, be appointed against 40 vacant posts.

Now the question arises as to from which date, the candidates who are claiming appointment on the basis of the revised merit list, should be accommodated.

At this stage, learned counsel appearing on behalf of the petitioners, who are claiming appointment on the basis of revised merit list, submit that they have the instructions from the petitioners concerned that they be offered appointment according to their merit from the date, the candidate lower in merit has been appointed but notionally but other benefits such as seniority, fixation of pay should also be extended to them.

Keeping in view the statement made by the learned counsel for the petitioners, the petitioners, who are seeking appointment on the basis of the revised merit list, will be given appointments from the date when the candidate lower in merit has been appointed with all other consequential benefits such as fixation of pay and seniority but will not get any arrears of salary in case, the appointment is offered to them within a period of three months from the date of the receipt of copy of this order.

Further, the petitioners, whose services have been protected vide the interim order of this Court, despite being beyond the selection zone, once they are being accommodated within 244 posts advertised, they will be governed by the seniority which will be fixed as per the revised merit list only and they will be granted all other benefits also on



the basis of revised merit list.

Learned counsel appearing on behalf of the contempt petitioners has submitted that as their claim with regard to the appointment has already been taken care of as they will be considered for appointment keeping in view the directions given herein-before, the applications for revival of the contempt petitions be disposed of having been not pressed.

Ordered accordingly.

In view of the above, the orders terminating the services of the petitioners are accordingly set aside and they are directed to be accommodated against 244 posts which were already advertised.

Accordingly, the petitions are disposed of in view of the aforesaid directions.

Pending applications, if any, also stand disposed of.

Photocopy of this order be placed on all the connected case files, referred to above.

(HARSIMRAN SINGH SETHI)
JUDGE

28.10.2024
dinesh

- | | |
|-------------------------------|-----|
| 1. Whether speaking/reasoned? | Yes |
| 2. Whether reportable? | No |