



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(104+225)

CM-14397-CWP-2024 in/and
CWP-25573-2018 (O&M)
Date of Decision : 05.09.2024

Navdeep Singh and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. D.S. Rawat, Advocate for the petitioners.

Mr. Swapan Shorey, Deputy Advocate General, Punjab with
Mr. Satnam Preet Singh, Deputy Advocate General, Punjab.

Mr. Yogesh Putney, Advocate for respondent No. 6.

Mr. T.S. Chauhan, Advocate with
Mr. Karanpreet Singh, Advocate with
Mr. Som Nath, Advocate for respondent No. 8.

Ms. Gurmeet Kaur Gill, Sr. Panel Counsel
for respondent No. 27-UOI.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioners is that for promotion to the post of Head Teacher, the respondents are giving benefit to the reserved category candidate beyond their entitlement, which is arbitrary and illegal and though, quota of 20% of the total cadre strength qua the reserve category candidates has already been exhausted but still, they are being given benefit of reservation, which is contrary to the judgment of the Hon'ble Supreme Court of India in **R.K. Sabarwal Vs. State of Punjab**, 1995(2) SCT 646 (SC), wherein it has been



held that where all the posts in the cadre have been filled up as per the roster, the roster will stop working and the vacancies which will arise, will be filled from the source, which has vacated the same so as to ensure that the quota prescribed for reservation is not exceeding in any manner.

2. Learned counsel appearing on behalf of the respondents submits that keeping in view the data which the department has, it will be ensured that the quota of 20% reserved for the scheduled caste as per Section 4 of The Punjab Scheduled Castes & Backward Classes (Reservation in Services) Act, 2006 for promotion to the post of Head Teacher is not violated in any manner. Learned counsel for the respondents submits that the promotions will be made keeping in view the total number of posts in the Head Teacher to be filled by promotion and 20% quota will be applied on the total cadre posts to be filled by way of promotions. Learned counsel further submits that in case, all the cadre posts of Head Teachers are already filled up or when filled up in accordance with roster point, the roster will not be operated thereafter and keeping in view the judgment of Hon'ble Supreme Court of India in ***R.K. Sabarwal's case (supra)***, the posts will be filled up from the source, which has vacated the same so as to maintain the parity of the percentage of reservation provided in favour of the reserved category scheduled caste.

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

4. As per the pleadings, which have come on record, the total posts of the Head Teacher with the respondent-department is 425. Keeping in view the rules governing the service, 75% are to be filled up from promotion from



the post of ETT/JBT Teacher. Keeping in view the 75% quota, out of the total cadre strength of 425, 319 comes to the share of the promotee quota.

5. Nothing has been brought on record as of now that at any given point of time, all 319 posts to be filled in the promotion quota, were filled up by operating the roster keeping in view the reservation provided for various categories including the reserved category of scheduled caste. As per the respondents, in the year 2016, against 319 posts to be filled by promotions, 226 promotions had only been made and only 54 Head Teachers belonging to the reserved category were working. That clearly shows that even if the total strength is taken as 319 and 20% of 319 will come to 64 posts, which are to be filled up, even if it is assumed for the sake of argument that all promoted scheduled caste Head Teachers were promoted on reservation, still 12 posts needed to be filled up from the reserved category candidates even as in the year of 2016.

6. Nothing has come on record to show that all 54 Teachers working as in the year, 2016 were granted promotion on the basis of reservation and as per the judgment of the Hon'ble Supreme Court of India in ***R.K. Sarbarwal's case (supra)***, any reserved category candidate getting promotion on his/her seniority is to be excluded while computing the quota to be filled up from the reserved category.

7. Further, keeping in view the interim order granted by this Court, no promotion has been made against 42 backlog posts, hence, a direction is given to the respondent-State to ascertain first as to how many scheduled caste candidates are working in the Cadre of Head Teachers against the quota



reserved for promotion. It should be further ascertained as to how many Head Teachers are working on the promoted posts of Head Teachers belonging to the scheduled caste, who have got promotion on the basis of reservation. After ascertaining the said date, in case, it is found that 64 scheduled caste candidates, who have got promotion on the basis of reservation, are not occupying the position, the respondents will be at liberty to grant the benefit of reservation to the scheduled caste employees while effecting promotions but upto the maximum of 64 posts by excluding the candidates who have got promotion to the post of Head Teachers belonging to the reserved category on their own seniority without availing the benefit of reservation.

8. It is further made clear that in case, all 319 posts coming to the share of promotee quota for promotion to the post of Head Teachers are not filled up, 100 point roster will be operated and the moment all the 319 posts are filled up in the promotion quota in the cadre of Head Teachers from ETT/JBT Teachers, which are to be filled, in accordance with roster, the respondents will not operate the roster henceforth and will only make promotion to the post in question from the source, which has vacated the post so as to create the vacancy to be filled up.

9. Further, the said exercise will be completed by the respondent-department in consultation with the department of Social Security to ensure that neither excess benefit is given to the reserved category candidate nor they are being caused prejudice keeping in view their right to claim promotion under the 20% quota fixed for them keeping in view the



Instructions which have been issued by the Government of Punjab coupled with the settled principle of law settled by the Hon'ble Supreme Court of India in **R.K. Sabarwal's case (supra)**.

10. After ascertaining all the data and ensuring that how the vacant posts of Head Teachers are to be filled up keeping in view the number of employees already working in the promoted cadre of ETT against 75% quota, in case it is found that the representation of the scheduled caste is less than 20% (excluding the scheduled caste candidates who have secured promotion on their merit), the benefit will be given to the reserved category candidates and in case, it is found that 20% reservation has already been given to ETT/JBT Teachers for promotion to the post of Head Teacher, keeping in view the total cadre strength, further benefit will not be given till, any post in the quota of reserved category to be filled by way of reservation arises.

11. Petition is disposed of in above terms.

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Learned counsel for the petitioner very fairly submits that as the main petition has been decided and the order has been passed in open Court, the present application to place on record the synopsis for deciding may be treated as not pressed any further.

Ordered accordingly.

Pending miscellaneous application, if any, also stands disposed of.

September 05, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes