

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1)

LPA-1755-2018 (O&M) in
CWP 3978-2017
Date of decision : 02.05.2024

Jaskaran Singh and another

.....Appellants

vs.

State of Punjab and others

.....Respondents

2)

LPA-498-2019 (O&M) in
CWP-312-2017

Sukhvir Singh and others

.....Appellants

vs.

State of Punjab and others

.....Respondents

3)

LPA-125-2020 (O&M) in
CWP-312-2017

Davinder Kumar and others

.....Appellants

vs.

State of Punjab and others

.....Respondents

CORAM : HON’BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON’BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Pardeep Bajaj, Advocate
for the appellants in LPA 1755-2018

Mr. Saurabh Singla, Advocate for
the applicant-appellants in CM-4550-2018 in
LPA-1755-2018.

Mr. H.C. Arora, Advocate, Mr. Pankaj Maini, Advocate
and Ms. Sunaina, Advocate for the appellants in
LPA-498-2019 and LPA-125-2020

Mr. Sukhvir Singh, Advocate for the
applicant-appellants in CM-1167-2019 in LPA-498-2019

Mr.Arjun Sheoran, Deputy Advocate General, Punjab

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SANJEEV PRAKASH SHARMA J. (Oral)

1. This order shall dispose of these connected LPAs as the issue involved in all the LPAs is common. Delay is condoned.
2. The appellants, by way of these LPAs challenged the order dated 23.05.2018 passed by the Single Judge in Civil Writ Petition No. 3978 of 2017 and also the order dated 6.10.2018 passed by the Single Judge in Review.
3. The appellants are collateral writ petitioners and had challenged the merit list prepared by the respondents for appointment on the post of Multi-purpose Health Worker (Male), on the ground that ineligible candidates, including women, who could not have been placed in the merit list, have been mentioned. It was argued before the Single Bench that the entire merit list was vitiated in law.
4. The appellants in LPA 1755-2018 had raised several other grounds for praying to quash the merit list. The appellants in LPA-498-2019 are physically disabled persons and they claim that as per their reservation for physically handicapped quota, they ought to be considered under the said quota. At the same time, they belong to reserved category and therefore, their candidature should have been considered on obtaining 40% or more marks in the written test.
5. Mr. H.C. Arora, Advocate appearing in CM-1166-2019 in LPA-498-2019 submits that minimum 40% marks laid down for Scheduled Caste

category, ought to have been continued by the Single Judge and he has erred in directing the respondents to prepare a merit list without following the said criteria. Mr. H.C. Arora, Advocate also appears in LPA-125-2020, and challenges the same merit list.

6. Learned counsel appearing for the State has pointed out that the order passed by the Single Judge was implemented and a fresh merit list was prepared based on the directions issued by the Single Judge. The petitioners did not challenge the result based on the revised merit list nor the criteria under the revised merit list is challenged. He submits that the LPAs have been rendered infructuous in view of the implementation of the order of the Single Judge and appointments have already been made to 1263 posts of Multi Purpose Health Worker.

7. We have carefully considered the submissions made at Bar and found that the Single Judge having taken into consideration the submissions advanced before him reached to the conclusion that the merit list prepared by the respondents was in haste and accordingly the merit list was set aside with further direction to prepare a merit list, ignoring the directions issued to the selecting body, after the selection process had already commenced to prescribe different cut off marks for General and Reserved categories. The grievance of the petitioners has arisen on account of this aspect of the observations of the Single Judge.

8. We find that by a telephonic message during the process of selection, the selecting body was directed to fix the cut off marks of 50% for general and 40% for reserved category, although such provision was not existing in the advertisement. The Single Judge, has therefore, directed to ignore such directions which be affirmed in view of the settled law that the

rules of the game cannot be allowed to be changed after the game has already started. The judgement passed in the case of *Tej Prakash Pathak & Ors vs Rajasthan High Court & Others, 2013 (4) SCC 540*, is although under scrutiny before the Larger Bench, but till date the law remains the same and is in force as laid down in the case of *K. Manjusree Etc. vs State of A.P. & another, 2008 (3) SCC 512* and the subsequent judgements. The directions issued by the Single Judge, therefore, do not warrant any interference.

9. As regards, the merit list prepared, ignoring the criteria of placing candidates having scored higher marks than the candidates in the General category and also for adopting the criteria of cut off marks, we find that the Single Judge has already accepted the said submissions and has virtually allowed the writ petitions filed by the appellants. The merit list had already been set aside.

10. This Court finds that in compliance of the order passed by the Single Judge, fresh merit list was prepared on 25.10.2018, which has not been challenged by the appellants. The said merit list has attained finality and selections have also been made and the concerned persons selected, have already joined. None of them is a party in the present appeals. In view thereof, we refrain from examining the revised merit list, which was not challenged either before the Single Judge, nor before this Court. No relief further can be granted to the appellants.

11.
- All the appeals accordingly fail and are dismissed.
12.
- All other pending application(s) stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

02.05.2024
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(SUKHVINDER KAUR)
JUDGE

Whether speaking / reasoned

Yes / No

Whether reportable

Yes / No