



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

CWP-15230-1998

Date of decision: 10.09.2025

Prabhdev Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: None for the petitioners.

Mr. Vikas Arora, DAG, Punjab.

Mr. D.V Sharma Senior Advocate with
Ms. Sundar Kumari, Advocate
for respondents No.3.

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to consider and appoint the petitioner as a junior Clerk against a reserved post in the quota meant for Scheduled Caste candidates against recruitment 48 Junior clerks appointed by respondent No.3.

2. The factual background of the case is that the petitioner applied for the post of junior clerk and was allotted Roll. no. 497 by the respondent which issued the advertisement inviting applications for recruitment vide newspaper dated 26.03.1998 (Annexure P-1). The petitioner belongs to a community (Mazbi Sikh) which falls under Scheduled Caste (hereinafter SC), category and submitted his application to respondent to be considered for the post under SC category. The petitioner was not selected for the post under SC category by the respondents.

3. It was pleaded by the petitioner that according to Rule 20 of the



Punjab State Coop. Financing Institutions Service Rules, 1958 (hereinafter 1958 Rules), issued by the Registrar Coop. Societies, the Banks while making recruitment and promotion, shall observe instructions issued by the state government in respect of reservation to persons belonging to SC and Backward classes. It is further pleaded that vide letter No.890-SWI-74/10619 dated 06.06.1974 (Annexure P-3) the percentage of reservation in direct recruitment in all services was increased from 20% to 25%. Out of the reserved posts, the Punjab Government had reserved 50% for Mazbi Sikhs and Ramdasias. It is further pleaded that out of the 48 recruits only 5 belonged to SC category, whereas as per 25% reservation policy of the state government the respondent should have recruited 12 recruits of SC category. Since the petitioner was at Sr.No.8, if the respondent had followed the policy of the government and abided by the 25% reservation policy the petitioner would have rightly been recruited.

4. *Per contra* the learned counsel for the respondents submits that the petitioner has relied on the repealed rules and not on the rules applicable at time of issuance of the advertisement. Punjab Cooperative Societies Rules, 1963 by repealing the Punjab Cooperative societies Rules, 1956 (hereinafter 1956 Rules), took away the power of the registrar, vested in him through the 1956 Rules, to lay down the strength and conditions for the employees of cooperative societies and substituted by limiting it to only laying down qualifications. Further the counsel submits that the advertisement (Annexure P-1) stated that the reservation shall be as per the service rules of the Respondent Bank which reserves 15% of the posts for SC category and which has been duly allotted. Further, respondent is a cooperative society registered under the provisions of Punjab Cooperative Societies Act, 1961 and is neither a statutory body nor performing any governmental functions, therefore respondent is not an



instrumentality of the government.

5. I have heard the learned counsel for the respondent and perused the record minutely with his able assistance.

6. The relevant provisions of the Punjab Cooperative Societies Rules, 1963 are reproduced below,

*“28. Employees of Co-operative Societies:-(1) No Co-operative Society shall appoint any person as its employee unless he possesses such **qualifications (xxxviii) and furnishes such security as may be specified by the Registrar** from time to time.*

(2) The Registrar may, in any case, for special reasons, relax the provisions of this rule to such extent as he may consider proper.”

*81. Repeal :-**The Punjab Co-operative Societies Rules, 1956, are hereby repealed** : Provided that any action taken, order issued, bye-law made under the provisions of the rules hereby repealed shall, in so far as it is not inconsistent with the provisions of these rules, be deemed to have been taken, issued or made under the provisions of these rules.”*

7. A Three Judge Bench of the Hon'ble Supreme Court in the **State of U.P. v. Hirendra Pal Singh, (2011) 5 SCC 305** while speaking through Justice B.S Chauhan made the following observation,

*“22. It is a settled legal proposition that **whenever an Act is repealed, it must be considered as if it had never existed. The object of repeal is to obliterate the Act from the statutory books,** except for certain purposes as provided under Section 6 of the General Clauses Act, 1897. Repeal is not a matter of mere form but is of substance. Therefore, on repeal, the earlier provisions stand obliterated/abrogated/wiped out wholly i.e. pro tanto repeal (vide Dagi Ram Pindi Lall v. Trilok Chand Jain [(1992) 2 SCC 13 : AIR 1992 SC 990] ; Gajraj Singh v. STAT [(1997) 1 SCC 650 : AIR 1997 SC 412] ; Property Owners' Assn. v. State of Maharashtra [(2001) 4 SCC 455 : AIR 2001 SC 1668] and Mohan Raj v. Dimbeswari Saikia [(2007) 15 SCC 115 : (2010) 2 SCC (Cri) 782 : AIR 2007 SC 232]).”*

8. Further reliance may be placed on a Two Judge Bench of the Hon'ble Apex Court in **Air India v. Union of India, (1995) 4 SCC 734** speaking through Justice S.P. Bharucha made the following observation,

*“8. In our view, **if subordinate legislation is to survive the repeal of its parent statute, the repealing statute must say so in so many words and***



by mentioning the title of the subordinate legislation. We do not think that there is room for implying anything in this behalf.”

9. Once a statute is repealed, the consequence is that the subordinate legislation made under the statute ceases to have effect after the repeal of the statute. Repealing an act would have an act of obliteration in such a way that it had never existed. The advertisement inviting application was dated 26.03.1998 during which the Rule 20 of 1958 Rules had no effect as the parent legislation empowering it was repealed 35 years ago in 1963.

10. Admittedly the 1956 Rules empowered the registrar to bind the banks under Rule 20 of the 1958 Rules, to observe instructions issued by the State government in respect of reservations while making recruitment. This Rule 20 of the 1958 Rules, lost its validity when the Punjab Cooperative Societies Rules, 1963 came into force which repealed the 1956 Rules and limited the power of the registrar to only laying down qualifications.

11. Further a Two Judge bench of the Hon’ble Supreme Court in ***State of Uttar Pradesh vs. Karunesh Kumar and Others*** 2022 SCC OnLine SC 1706, while speaking through Justice M.M Sundresh observed that,

“21. A candidate who has participated in the selection process adopted under the 2015 Rules is estopped and has acquiesced himself from questioning it thereafter, as held by this Court in the case of Anupal Singh (supra):

*55. Having participated in the interview, the private respondents cannot challenge the Office Memorandum dated 12-10-2014 and the selection. On behalf of the appellants, it was contended that after the revised Notification dated 12-10-2014, the private respondents participated in the interview without protest and only after the result was announced and finding that they were not selected, the private respondents chose to challenge the revised Notification dated 12-10-2014 and the private respondents are estopped from challenging the selection process. **It is a settled law that a person having consciously participated in the interview cannot turn around and challenge the selection process.**”*

(emphasis added)



Reliance in this regard may also be placed on another Two Bench Judgment of the Hon'ble Apex Court in ***Rekha Sharma vs. The Rajasthan High Court, Jodhpur & anr. 2024 INSC 615.***

12. In view of the above discussed facts and circumstances, this court observes that the petitioner consciously participated in the selection process, advertisement for which clearly stated reservation policy shall be according to the bank's rules and policies and then upon being unsuccessful in the selection process, challenged the policy and selection process. Further the successful candidates who would be affected have not been impleaded.

13. In light of the discussions above the petitioner cannot cling onto a statute which was neither in force nor applicable at the time of issuance of advertisement on 26.03.1998 (Annexure P-1). Hence the present petition is dismissed.

14. Pending application(s) are also disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

10.09.2025

Neha

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