



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

CWP-8237-2022 (O&M)
Date of Decision:-**22.01.2025**

SEHRAJ SINGH VIRK

... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

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**CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE ALOK JAIN**

Present:- Mr. Randeep Singh, Advocate
for the petitioner,

Mr. Shekher Verma, Addl. P.P. Punjab.

Mr. Pankaj Gupta, Senior Panel Counsel
for Union of India-Respondent No.5.

LISA GILL J.(Oral)

1. Grievance raised in this petition is that no women candidate had applied/was found eligible for the post of Deputy District Attorney reserved in terms of advertisement dated 5.04.2022 (Annexure P-1).

2. As per advertisement dated 05.04.2022, applications were invited for 41 posts of Deputy District Attorney. One post in the handicapped category, falling in disability of blind and low vision was reserved for women. Petitioner claiming to be a physically handicapped person having low vision sought to apply under the said category. When his application was not accepted, present writ petition was filed.



3. While noting the information supplied by learned counsel for the State that no female candidate had applied, notice of motion was issued in this petition on 22.04.2022 and it was directed that application form of petitioner be accepted and he be allowed provisionally to appear in the examination. It was further directed that his result be not declared and it would remain subject to final decision of writ petition. Pursuant to order dated 23.11.2023 his result was produced in Court on 4.12.2023 and following order was passed:-

“Through advertisement no.20221, the Punjab Public Service Commission (for short 'the Commission') invited applications for recruitment to 41 posts of Deputy District Attornies (for short 'the DDAs'). Category wise reservation of the advertised posts was also given in the advertisement. The only post reserved for persons with disability (blind and low vision) was reserved to be filled up from a woman candidate. The petitioner being a physically handicapped person having blind/low vision sought to apply under the physically handicapped category. The Punjab Civil Services (Reservation of Posts for Women) Rules, 2020 (for short 'the 2020 Rules') were to apply for the posts reserved for women. Since as per Rule 5(3) of the 2020 Rules, unfilled posts reserved for women in the respective vertical categories were not to be carried forward and filled up from available and eligible male candidates in the respective category, the petitioner, who is a physically handicapped person with blind/low vision sought to apply so that his name could be considered in the eventuality there being no eligible/suitable woman candidate in the physically handicapped category. Since the petitioner's application was not accepted, he knocked the doors of this Court through the instant writ petition. The



matter was listed for preliminary hearing before a Coordinate Bench of this Court on 24.02.2022 on which date, after hearing learned counsel for the parties, this Court issued notice and in the meanwhile, directed to provisionally consider the petitioner's case under the physically handicapped category. In terms of the interim directions by this Court, the petitioner's case has been provisionally considered and the result produced before this Court reveals that he has qualified.

It is not disputed that there is no woman candidate under the physically handicapped category and that the petitioner is the only physically handicapped (male) candidate who has qualified the test. However, Rule 5(3) of the 2020 Rules provides that unfilled posts for women are not be carried forward and filled up from male candidates belonging to the respective category only in the eventuality where such unfilled posts are in the respective vertical reservations. Physically handicapped category would come under horizontal reservations.

We are of the opinion that applicability of Rule 5(3) of the 2020 Rules only to vertical reservations and not to a horizontal reservation is prima facie unreasonable. However, before giving a final opinion, we direct that under Rule 6 of the 2020 Rules, the Secretary, Department of Personnel, Government of Punjab may look into the matter and then file his affidavit before the adjourned date.

Adjourned to 22.01.2024.

To be taken up after the urgent matters.”

4. In compliance thereof affidavit dated 4/5.03.2024 of Ms. Shruti Singh, Secretary to Government of Punjab, Department of Personnel has been filed wherein it is stated that as no women candidate was available for recruitment to the post of Deputy District Attorney in the category of person



with disability/blind and low vision, male candidate from the category needs to be considered for recruitment.

5. Learned counsel for the State while referring to the said affidavit submits that case of petitioner shall be considered within six weeks.

6. Keeping in view the facts and circumstances as above, writ petition is disposed of in terms of the specific and categoric stand of the State as above, while clarifying that petitioner shall not be entitled to any actual benefits for period he may not have worked. The issue as raised in this writ petition is left open for adjudication in appropriate proceedings.

7. Pending miscellaneous application(s), if any, are disposed of accordingly.

(LISA GILL)
JUDGE

(ALOK JAIN)
JUDGE

22.01.2025
Gaurav Sorot

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No