



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

CWP-12572-2025

Date of decision: 02.09.2025

Gagandeep Singh and others

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.S. Kalra, Advocate
for the petitioners.

Mr. T.P.S. Walia, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been preferred under Article 226 of the Constitution of India for issuance of writ in the nature of *mandamus* directing the respondents to appoint the petitioners to the post of driver/operator and fill the vacant posts reserved for women in terms of Punjab Civil Services (Reservation of posts for Women) Rules, 2020 (hereinafter 'Rules of 2020) from amongst the next meritorious candidates. It is further prayed that a writ of the nature of *certiorari* may also be issued for quashing order dated 17.04.2025 (Annexure P-11) whereby the legal notice dated 11.02.2025 sent by the petitioners was decided against them.

FACTUAL BACKGROUND

2. Briefly, the facts are that an advertisement dated 28.01.2023 (Annexure P-1) was issued for filling up the post of Fireman and Driver/Operator in Municipal Corporations, Councils and, Nagar Panchayats, in the following manner:



Post	Total Posts	Reserved for Women
Frieman/Driver/Operator in Municipal Corporations	70	36
Fireman/Driver/Operator in Municipal Council-Nagar Panchayats	256	104

In pursuance of the same, a written test was conducted and the results (Annexure P-5) were published by the Subordinate Services Selection Board. A perusal of the same would indicates that there were 21 female applicants in all, out of which only 06 appeared for the written examination. Against the 256 vacancies with Municipal Councils-Nagar Panchayats, 299 candidates were declared eligible post written and physical exams. However, none of those 299 candidates were female. In spite of there being no eligible female candidates, 104 vacancies in Municipal Corporations and 36 vacancies in Municipal Councils-Nagar Panchayats are lying vacant, while eligible candidates, the present petitioners, are available. Hence, the present writ petition.

CONTENTIONS

3. Learned counsel for the petitioners submits that posts have been reserved for female candidates vide advertisement dated 28.01.2023 (Annexure P-1), in contravention of the Rules of 2020. Rule 4 of the Rules of 2020 allows for reservation for women to the extent of 33%, in terms of the roster; however, 51.42% seats have been reserved for women with respect to Municipal Corporations and 40% with respect to Municipal Councils-Nagar Panchayats. Learned counsel submits that the same is not being assailed at this stage as no female candidate has qualified for appointment. He further refers to Rule 5 of the Rules of 2020 to state that in case of non-availability of female candidates,



the posts are required to be filled by eligible male candidates. Reliance in this regard is placed on the affidavit dated 04/05.03.2024 (Annexure P-12) filed by the Department of Personnel in **CWP-8237-2022** titled ***Sehraj Singh Virk vs. State of Punjab and others*** wherein the same was explicitly stated with respect to vertical reservation categories. Moreover, Rule 6 of the Rules of 2020 clarifies that the Department of Personnel can take any requisite decisions in case a difficulty arises about application of the Rules.

4. Learned counsel further contends that vide impugned speaking order dated 17.04.2025 (Annexure P-11), it was stated that CWP-25576-2023 pertaining to the matter of relaxation in physical examination with respect to the female candidates for the post of Fireman, is pending consideration before this Court and therefore, a decision has been taken not to de-reserve the posts including that of Drivers/operators. However, no stay on appointments has been granted in CWP-25576-2023. Moreover, only 03 female candidates had appeared for the written exams with respect to the post of Driver/Operator in Municipal Councils-Nagar Panchayats against 104 vacancies while only 06 had appeared against 36 posts reserved in Municipal Corporations. Further still, none of the female candidates was found eligible and hence, no question arises for keeping the posts reserved for them.

5. *Per contra*, learned counsel for respondents No.1 and 2- Department of Local Government files a reply by way of affidavit of Bhagwant Rai Kalia, Under Secretary to Government of Punjab, Department of Local Government on behalf of respondents No.1 and 2, and the same is taken on record. He further submits that during the recruitment process, the petitioners were held ineligible for the post of Fireman by respondent No.3 due to their



non-selection in the merit list. The female candidates who could not clear the physical test after passing the written test filed ***CWP-25576-2023*** titled ***Jasdeep Kaur and others vs. State of Punjab and others***, seeking relaxation in the criteria. Vide order dated 21.11.2023, this Court directed that any further recruitment shall abide by the final decision in this case, however, the matter remains pending consideration before a Division Bench along with ***CWP-21912-2021*** titled ***Manpreet Kaur and others vs. U.T. Chandigarh and others***. Moreover, ***CWP-21351-2024*** titled ***Balkar Singh and others vs. Punjab Government and others*** seeking de-reservation/conversion of posts reserved for women is also currently pending consideration. If subsequently, this Court decides in favour of the female candidates, the department would not have any vacant posts for them, which would result in non-compliance with the mandate of providing 33% reservation to women. However, he could not controvert the fact that only 3 female candidates appeared for the posts in Municipal Councils and 06 in Municipal Corporations.

OBSERVATIONS AND ANALYSIS

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the relevant provisions of Rules of 2020 ought to be studied for proper adjudication of the case:

“5. Procedure for reservation of posts.

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(3) *If the posts remain unfilled due to lack of sufficient number of eligible women candidates, then the unfilled posts shall not be carried forward to subsequent years and such posts shall be filled from the other candidates of the respective vertical categories.*

Example. - If there are 200 vacancies and fifteen percent are reserved for Schedule Castes and twenty seven percent for Other Backward Classes under vertical reservation; and thirty three percent are reserved for women under horizontal



reservation, then, there are 116 seats in Open Category, thirty seats for Schedule Castes and fifty four seats for Other Backward Classes under vertical reservation. Since, thirty three percent seats in each vertical is the reservation quota for women, i.e. thirty eight seats for Open Category women, ten seats for Schedule Caste women and eighteen seats for Other Backward Classes women.

Step 1. - Candidates shall have to be first listed in accordance with merit, from out of the successful eligible candidates, in their respective vertical categories.

Step 2. - As such, thirty posts are reserved for Schedule Castes (of which the quota for women is ten), Schedule Caste candidates shall have to be first listed in accordance with merit, from out of the successful eligible candidates. If such list of thirty candidates contains ten Schedule Caste women candidates, then there is no need to disturb the list by including any further Schedule Caste women candidates. On the other hand, if the list of thirty Schedule Caste candidates contains only eight women candidates, then the next two Schedule Caste women candidates in accordance with merit, will have to be included in the list and corresponding number of candidates from the bottom of such list shall have to be deleted, so as to ensure that the final list of thirty selected Schedule Caste candidates contains ten women Schedule Caste candidates. But if the list of thirty Schedule Caste candidates contains more than ten women candidates, selected on own merit, all of them will continue in the list and there is no question of deleting the excess women candidates on the ground that Schedule Caste women have been selected in excess of the specified internal quota of ten.

Step 3. - Repeat this exercise for each vertical to fill vacancies.

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6. Power to remove difficulties.

If any difficulty arises in giving effect to the provisions of these rules, it shall be referred to the State Government in the Department of Personnel, whose decision thereon shall be final. ” (emphasis added)



7. It appears that 70 vacancies for the post of Fireman/Driver/Operator in Municipal Corporations and 256 vacancies for the post of Fireman/Driver/Operator in Municipal Council-Nagar Panchayats were notified vide advertisement dated 28.01.2023 (Annexure P-1). While 36 posts were reserved for female candidates with respect to Municipal Corporations, 104 posts were reserved for them in Municipal Councils-Nagar Panchayats. It is a matter of record that only 06 and 03 female candidates appeared for the written examination pertaining to Municipal Corporations and Municipal Councils-Nagar Panchayats, respectively. However, no one could clear the same in order to be eligible for appointment. As such, the posts reserved for female candidates continue to remain vacant.

8. The argument presented by learned counsel for respondents No.1 to 2 cannot be appreciated by this Court as the writ petitions pending before this Court pertain to relaxation of criteria for the female candidates with respect to the physical test. Since a total of 09 female candidates appeared in the written test against a total of 144 posts reserved in their favour, the decision of the said writ petitions would not solve the present controversy. Further, Rule 5(3) of Rules of 2020 specifically forbids carrying forward of the unoccupied vacancies for the lack of eligible female candidates, and clarifies that the vacant posts are to be filled from the eligible male candidates in consonance with the vertical reservation requirements. Further still, a perusal of the impugned speaking order dated 17.04.2025 (Annexure P-11) that the Director, Local Government Department, Punjab has not considered the case of the petitioners on merits in view of the Rules of 2020 but has limited the exercise by only referring to the ongoing litigation before this Court.



9. Further, since vacant posts have presented themselves at the end of the recruitment exercise, the same must be filled with the next eligible meritorious candidate, in absence of any eligible female candidates. A Division Bench of this Court in **CWP No.13215-2009** titled as **Gajraj Singh vs. State of Haryana**, speaking through Justice M.M. Kumar, made the following observations:

*“3. Having heard the learned counsel, we are of the view that the aforesaid contention which has again been raised before us was rightly rejected by the learned Single Judge. **It is well settled that once a post has not been consumed and a meritorious candidate in the merit list is available then the vacancy could be filled in by inviting next person in merit.** The direction issued by the learned Single Judge are consistent with the principles of equality laid down in Articles 14 and 16(1) of the Constitution. The post of Lecturer in Hindi has to be offered to the most meritorious candidate who may be next in the merit after Vinod Kumar under the ex-serviceman category. Therefore, no exception is provided to interfere in the view taken by the learned Single Judge. The appeal is wholly without merit and does not warrant admission. Accordingly, the appeal fails and the same is dismissed.” (emphasis added)*

Thus, there is no legal requirement to keep all of the 144 posts vacant for the reason of unavailability of eligible female candidates. The respondents shall, however, be justified in holding back 09 posts, as only 09 female candidates appeared for the written exam, in view of the pendency of writ petitions qua relaxation of the selection criteria before this Court.

CONCLUSION

10. In view of the discussion above, the present petition is allowed. The impugned order dated 17.04.2025 (Annexure P-11) is hereby set aside and



the respondents are directed to fill the 135 vacant posts in terms of Rules of 2020.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

02.09.2025

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