

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

226

CWP No. 20485 of 2018

Date of decision: 27.02.2025

Namita Sharma

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Ashwani Bhardwaj, Advocate for the petitioner.

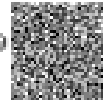
Mr. Charanpreet Singh, AAG, Punjab.

Mr. Parvesh K. Saini, Advocate for respondent Nos. 3 and 4.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for directing the respondents to appoint the petitioner to the post of Lecturer for Physical Education in view of orders dated 14.09.2011 and 28.09.2011, Annexures P-5 and P-6 passed by this Court in CWP Nos. 18548 of 2009 and 18360 of 2011.

2. The petitioner had applied pursuant to advertisement dated 21.10.2006 for the post in question and based on the educational qualification in terms of the advertisement was awarded 72.578% while Karambir Kaur having 71.05% and Ritu Sharma 71.68 were appointed under the Female Category, to which even the petitioner belonged. The same was challenged by one Sharnjit Kaur by filing CWP-18548-2009 and this Court conditionally allowed the petitions on 14.09.2011, the operative portion whereof reads thus:-



“(4)In support of the above-mentioned averments, the respondents have placed on record the revised merit list (Annexure R1) wherein the name of respondent No.3 (Karambir Kaur) has been "excluded being lower in merit".

(5)Learned counsel for the petitioner, however, vehemently contends that respondent No.3 is still in service though admittedly she is lower in merit than the petitioner which is violative of Articles 14&16 of the Constitution. This fact has not been specifically denied by the respondents nor Mr. Shashi, Law Officer of the Department present in Court, is able to controvert the specific stand taken on behalf of the petitioner.

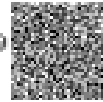
(6)That being the state of affairs, the writ petition is conditionally allowed to the extent that the impugned order dated 21.09.2009 (Annexure P5) is quashed with a direction to respondent Nos:1 & 2 that in case respondent No.3 is still continuing in service, the petitioner shall also be given appointment forthwith notionally and her seniority shall date back to the date when respondent No.3 was appointed. However, if respondents No.1 & 2 take an appropriate decision to terminate services of respondent No.3 being lower in merit and restrict the appointments upto merit No.73.2851 within a period of one month from today, in that event the above-mentioned direction shall become dormant.

(7) Ordered accordingly. Dasti.”

3. The writ petition No.-18360-2011 filed by the petitioner was also disposed of on 28.09.2011, based on the above decision, which reads thus :-

“The petitioner's case on the other hand is that despite she is higher in merit (72.578%) than the candidates, namely, respondent Nos.3 & 4 (Ritu Sharma and Karambir Kaur) who have got 71.68% & 71.05% merit points, respectively, and have still been appointed.

Reliance is placed on a decision of this Court dated 14.09.2011 passed in CWP No. 18548 of 2009



(Sharnjit Kaur vesus State of Punjab and others) (Annexure P-12). The above-stated claim has been lodged by the petitioner vide a representation dated 09.09.2010 (Annexure P-9) also but without any response thereto so far.

In these circumstances, I deem it appropriate to dispose of this writ petition with a direction to respondent Nos. 1 & 2 to consider and dispose of the above mentioned claim of the petitioner after verifying the correct facts and in the light of the decision of this Court in Sharnjit Kaur's case (supra), by passing a speaking order, within a period of two months from the date of receiving a certified copy of this order.

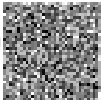
Ordered accordingly.

Dasti.”

4. The services of Smt.Ritu Sharma, Karmbir Kaur, Smt. Rajneesh and Smt. Harminder Kaur were terminated with immediate effect vide order dated 13.01.2012, the challenge to the same was made and were disposed of as such on 12.12.2017:-

“This judgment of mine shall dispose of CWP Nos.1332,1343, 1344 & 1345 of 2012 as the facts involved in all the cases are the same.

Admittedly, the selection/appointment of the petitioners has never challenged in any of the writ petitions filed by the other persons i.e. CWP No.18548 of 2009 of and other connected cases of 2010 as no relief was sought against the petitioners. Even the petitioners were not party in that petition. The services of the petitioners were terminated just to make places for those persons who were higher in merit as per orders passed in CWP Nos.11688 of 2006 and 19 of 2007. It has also been brought to the notice of this Court by learned State counsel that certain posts are still available with respondent department of the category to which petitioners belong as per affidavit dated 14.03.2017 filed in response to order passed by this Court on 31.01.2017.



In case the posts are available then the claim of the petitioners be reconsidered for appointment against those posts. It is also directed that the petitioners shall be entitled for all benefits. However, the respondents are at liberty to consider the claim of seniority of the petitioners separately.
The impugned order of termination is hereby set aside.
Disposed of with the aforesaid said directions.”

5. In view of the above, the petitioner being higher in merit and armed with the orders of this Court, was entitled to be appointed against the vacancies which occurred by termination of services of the above persons, who though have been allowed to continue but he has not been considered and granted his due.
6. Having considered the facts and circumstances of this case, the present petition is disposed of with a direction to the respondents to consider and appoint the petitioner, subject to his merit position. He shall be entitled to notional benefits only. Needful be done within a period of three months.

(AMAN CHAUDHARY)
JUDGE

27.02.2025
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No