



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

237

CWP-28936-2022

Date of decision: 12.03.2026

Vinod Kumar

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. H.C. Arora, Advocate with
Mr. Gagandeep Sandhu, Advocate
for the petitioner.

Mr. Surya Kumar, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

1. The instant petition has been filed by the petitioner under Article 226 of the Constitution of India, seeking a writ of certiorari, for quashing the order dated 24.11.2022 (Annexure P-9), vide which the claim of the petitioner for appointment to the post of Workshop Superintendent in Backward Class Category has been rejected.

2. The brief facts, as stated in the petition, are that respondent No.3-Punjab Public Service Commission, Patiala (hereinafter referred to as 'Commission') issued an advertisement No.8 in the month of January, 2016, whereby 06 posts of Workshop Superintendents were advertised and out of said 06 posts, 01 post was reserved for BC Category. It is the case of the petitioner that respondent No.4 and the petitioner were selected in the merit at Sr. No.1 and 2 respectively. Consequently, respondent No.4 was offered appointment to the said

post, vide appointment letter dated 13.10.2021, however, he did not join within stipulated period and submitted a representation dated 08.11.2021, seeking extension in the joining period, which was accepted and joining period was extended for 03 months from 13.10.2021 to 12.01.2022. However, still respondent No.4 did not join even after expiry of the extended period and consequently, the appointment of respondent No.4 was cancelled due to his non-joining on the said post. The grievance of the petitioner is that since the petitioner was at Sr. No.2 in the merit list in BC category, he was entitled to be offered appointment once the appointment of respondent No.4 was cancelled due to his non-joining.

3. Learned State counsel has made reference to the relevant averments in the written statement which reads thus:-

“viii) That accordingly offer of appointment vide letter dated 13.10.2021 was issued to the Respondent No.4 by Respondent No. 1 and thereafter, while considering the representation dated 08.11.2021 given by Respondent No.4, joining period was also extended for 3 months from 13.10.2021 to 12.01.2022.

(ix) That according to the report received by the head of the institution, the said candidate did not join even after expiration of the three months extension. Therefore, as the period of appointment issued to respondent No. 4 had expired and his candidature was cancelled due to his non joining.

(x) That in the meanwhile, the decision was taken by the higher authorities to stop the recruitment process/cases for the advertisement issued in the year 2015-16 under the Department of Technical Education and Industrial Training (Technical Education Wing), except the ongoing court cases and this was approved by the then Minister, Department of Technical Education and Industrial Training on 06.01.2022 and the process of recruitment was completed.”

4. I have heard learned counsel for the parties and perused the

record.

5. The facts are not in dispute that in the merit list, respondent No.4 was at Sr. No.1 and the petitioner was at Sr. No.2 in BC Category. Respondent No.4 was offered appointment on 13.10.2021, but he did not join and on his representation, the joining period was extended till 12.01.2022, however, respondent No.4 again did not join and consequently, his candidature was cancelled. Once the candidature of respondent No.4 was cancelled, the right had accrued to the petitioner to claim appointment and it was incumbent upon the respondents to offer appointment to the petitioner being next in the order of merit in BC category. A Division Bench of this Court in **Ritu D/o Sh. Nafe Singh v. State of Haryana and others : 2013(3) SCT 281**, while considering the similar issue has held as under:-

*“10. A somewhat similar and relevant issue came up for consideration before the Hon'ble Apex Court in **RS Mittal v. Union of India, 1995(3) SCT 284**. The matter pertained to the selection and appointment of candidates for appointment to the post of Judicial Member, Income Tax Appellate Tribunal. The duly constituted Selection Board had prepared a panel of selected candidates which included the name of the appellant therein, namely, RS Mittal and the recommendations were sent on 25.1.1988 to the Central Government for consideration. The Central Government, however, did not make any appointment and issued fresh advertisement on 22.2.1990 inviting applications for the same very posts. Such action was sought to be defended on behalf of the Union of India on the plea that the life of the panel was for a period of 18 months and the same stood expired in July 1989 itself. Deprecating the stand taken on behalf of the Union of India and holding that the appointment should have been offered within a reasonable time of the availability of the vacancy and thereafter to the next candidate, it was observed in the following terms:*

“It is no doubt correct that a person on the select-panel has no vested right to be appointed to the post for which he has been selected. He has a right to be considered for appointment. But at the same time,

the appointing authority cannot ignore the select-panel or decline to make the appointment on its whims. When a person has been selected by the Selection Board and there is a vacancy which can be offered to him, keeping in view his merit position, then, ordinarily, there is no justification to ignore him for appointment. There has to be a justifiable reason to decline to appoint a person who is on the select-panel. In the present case, there has been a mere inaction on the part of the Government. No reason whatsoever, not to talk of a justifiable reason, was given as to why the appointments were not offered to the candidates expeditiously and in accordance with law. The appointment should have been offered to Mr. Murgod within a reasonable time of availability of the vacancy and thereafter to the next candidate. The Central Government's approach in this case was wholly unjustified."

11. Adverting back to the facts of the present case, it was obligatory upon the Appointing Authority to have acted promptly as also within a reasonable time-frame upon a selected candidate in the original select list not having accepted the offer of appointment. Even though, there would be no quarrel as regards the proposition that mere impanelment of the name of the appellant in the waiting/panel list did not vest in her a right to be appointed, but equally it will not give the State Government a license to act arbitrarily. Nothing has been brought on record that would justify the inaction on the part of the Appointing Authority for not having cancelled the offer of appointment made in favour of Smt. Manju Rani within the stipulated time-frame and having made the offer of appointment of the post in question to the candidate next in order of merit. Suffice it to observe that we are not seized of a claim of appointment over and above the number of vacancies advertised but only as regards a claim of a duly selected candidate in relation to the original five advertised vacancies pertaining to the reserved ex-Servicemen (General) Female category. The inescapable conclusion is that had the Appointing Authority acted with a sense of promptitude, the right of the appellant would have crystalized well within the validity period of one year of the waiting/panel list with effect from the date of receipt of the recommendations i.e. 27.1.2010. Action of the Appointing Authority suffers from the vice of arbitrariness and, as such, cannot sustain.

12. Even otherwise, the very objective of preparing a waiting/panel list and for such list to be kept operative for a specific period is that if a vacancy arises during such period for any reason, then the whole process of selection

*may not have to be repeated and the process of selection already having been undertaken would hold good for such period. A reference in this regard can usefully be made to the judgments of this Court in **Ajmer Singh v. State of Haryana and others, 1997(1) CLJ (Service) 86 and Raghbir Chand Sharma v. State of Punjab, 1992 (1) RSJ 195.***”

6. To the same effect is the judgment passed by the learned Single Judge of this Court in **“Suman Rani vs State of Haryana and others”, 2016(4) SCT 361**, which has been upheld in **LPA No.427 of 2017** titled as **“State of Haryana and another vs Suman Rani and another”**, decided on 29.03.2017 and the judgment in **“Naresh Kumari vs State of Punjab and another”, 2015(2) SCT 121**, which has also been upheld by this Court in **LPA No.1436 of 2015** titled as **“State of Punjab and another vs Naresh Kumari”**, decided on 30.09.2015. To the same effect is the judgment of this Court in **CWP No.11346 of 2018 titled as 'Amrik Singh v. State of Punjab and others', decided on 14.02.2024.**

7. Consequently, the present writ petition is allowed. The impugned order dated 24.11.2022 is set aside and the respondents are directed to consider the case of the petitioner for appointment to the post of Workshop Superintendent (BC Category) and grant him all the notional benefits such as seniority, pay fixation etc. with effect from the date respondent No.4 was offered appointment, within a period of two months from the date of receipt of certified copy of this order.

12.03.2026

Vinay

(NAMIT KUMAR)
JUDGE

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