



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

240

Decided On: 01.09.2025

1. CWP-7869-2023(O&M)

AMAR LAL

...PETITIONER(s)

Versus

STATE OF HARYANA AND OTHERS

...RESPONDENT(s)

2. CWP-6714-2024

RAJESH KUMAR KALIA

...PETITIONER(s)

Versus

STATE OF HARYANA AND OTHERS

...RESPONDENT(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. R. K. Arora, Advocate for the petitioner in CWP-7869-2023.

Mr. Varun Veer Chauhan, Advocate
for the petitioner in CWP-6714-2024.
for respondent no.4 in CWP-7869-2023.

Mr. Parveen Mehta, Additional Advocate General, Haryana.

Mr. Shreenath A. Khemka, Advocate
for the respondents/University.

TRIBHUVAN DAHIYA J.(Oral)

The aforementioned two petitions are based upon similar facts involving common issues; accordingly, the same are being decided together.

2. For brevity, the facts have been noticed from CWP-7869-2023, which has been filed, *inter alia*, seeking a writ of *certiorari* quashing the order dated 11.04.2023, Annexure P-10, whereby the fourth respondent (petitioner in the connected petition CWP-6714-2024) has been given promotion to the post of Personal Assistant under the Scheduled Caste (SC) category, allegedly ignoring the petitioner's seniority and eligibility.



3. It is contended by learned counsel on behalf of the petitioner that he joined service in the respondents/University as Steno-Typist on 21.05.1992, and was promoted as Senior Scale Stenographer on 01.03.1995. Despite rendering more than twenty-nine years of service, he has not been given further promotion as Personal Assistant and is stagnating as Stenographer. He belongs to the General category and his seniority amongst the Senior Scale Stenographers is at number seventy-six, as against the fourth respondent, who belongs to the SC category, and is at serial ninety-eight. The next promotional post for them is that of Personal Assistant, and as per Policy dated 15.07.2014, Annexure P-2, applicable to the University, there is reservation of twenty per cent for the SC category candidates for Class III/Group-C posts; the University considers the post of Personal Assistant under Group-C. Total cadre consists of thirteen posts, and as per the reservation Policy roster points 4 and 8 are reserved for the SC category candidates; two employees belonging to the category have already been promoted against these points vide office order dated 30.06.2021, Annexure P-4, and twenty per cent quota is full. The fourth respondent has been given promotion beyond the quota in violation of the Policy, vide impugned order dated 11.04.2023. The post in question fell vacant on retirement of a General category candidate on 28.02.2023, which was required to be filled by another General category candidate only, and the fourth respondent could not have been considered against the same. This is in violation of law laid down by the Supreme Court in *R. K. Sabharwal and others v. State of Punjab and others*, 1995(2) SCC 745.

3.1. At the time of issuing notice of motion, this Court vide impugned order dated 18.04.2023 stayed operation of the impugned promotion order



dated 11.04.2023. The petitioner filed a contempt petition, COCP no.1610 of 2023, alleging violation of the interim order, and during its pendency bailable warrants were issued against the concerned University Officer vide order dated 29.02.2024. In these circumstances, the order impugned in the connected petition, CWP-6714-2024, dated 12.03.2024, was passed whereby the fourth respondent was “reverted to the post of Senior Scale Stenographer and posted in the office of Registrar with effect from 11.04.2023 against vacant post.”

4. Learned counsel for the respondents, on the contrary, have disputed the facts aforementioned by contending that there are fourteen posts in the cadre of Personal Assistant, as one additional post was created vide memo dated 21.04.2022, Annexure R-2/12. As per the roster register, the SC category candidates are to be promoted against roster points 4, 8 and 14. Therefore, the fourth respondent was promoted within the twenty per cent quota of posts reserved for the category. They have also referred to roster register maintained by the University, Annexure R-2/13, which shows in 2018 against roster point 4 meant for the SC category, a General category candidate, Geeta Rani, was promoted; similarly against roster point 8 meant for the SC category, another General category candidate, Sadhu Ram, was promoted. The University realised this mistake and subsequently promoted two SC category candidates against roster points 11 and 12, namely, Jai Singh and Suresh Kumar, who were considered to have been promoted against roster points meant for the category. Later, against roster points 14 and 18 meant for SC category, once again General category candidates, Varsha Gandhi and Surekha, were promoted. Realising the mistake, on retirement of an employee the fourth respondent was promoted against roster point 20 reserved for



General category, vide impugned order dated 11.04.2023. This was done by operating the roster in terms of the Policy and the settled law. Accordingly, as of now against fourteen sanctioned posts in the cadre, there are only three SC category candidates, including the fourth respondent, which is within permissible twenty per cent reservation.

5. These facts have not been disputed by the petitioner by filing any counter-affidavit.

6. Submissions made by learned counsel for the parties have been considered.

7. As per facts brought on record, there are fourteen Group-C posts of Personal Assistant in the University. The applicable reservation Policy, dated 15.07.2014, provides the SC category candidates are entitled to twenty per cent reservation in promotions. The post is required to be filled from the feeder cadre, Senior Scale Stenographer. As per roster points notified under the Policy, points 4, 8, 14 and 18 are reserved for the SC category. To give effect to the same, the University has promoted two SC category candidates by reserving roster points 11 and 12 for them, as some General category candidates had earlier been promoted against roster points 4 and 8, reserved for the SC category. Similarly, against roster points 14 and 18 meant for the SC category, General category candidates had been promoted. Thus, when the next vacancy arose, roster point 20 originally meant for the General category, was reserved for the SC category, and the fourth respondent was promoted against it vide impugned order dated 11.04.2023. Accordingly, three SC category candidates have been promoted against fourteen sanctioned posts in the cadre which cannot be considered beyond twenty per cent quota. As per the settled law, in case total posts under a cadre are less than 100, the roster is



to operate till the last point. This is what has been prescribed in the reservation Policy, dated 15.07.2014, as well; para 8 whereof mentions '*the roster system will continue to be operated and be closed after the 100th points of roster is utilised for all cadres having a strength of 100 or less.*' which is not under challenge.

8. This view is in line with the law laid down by the Constitution Bench in *R. K. Sabharwal* case (supra), holding that the 100 points roster is to operate till the 100th point even if posts in a cadre are less than 100, and in the event of non-availability of a reserved candidate at the roster point meant for the category, the Government can carry forward the point in a just and fair manner. The relevant paragraph 10 of the judgment reads as under:

10. We may examine the likely result if the roster is permitted to operate in respect of the vacancies arising after the total posts in a cadre are filled. In a 100-point roster, 14 posts at various roster points are filled from amongst the Scheduled Castes/Scheduled Tribe candidates, 2 posts are filled from amongst the Backward Classes and the remaining 84 posts are filled from amongst the general category. Suppose all the posts in a cadre consisting of 100 posts are filled in accordance with the roster by 31.12.1994. Thereafter in the year 1995, 25 general category persons (out of the 84) retire. Again in the year 1996, 25 more persons belonging to the general category retire. The position which would emerge would be that the Scheduled Castes and Back ward Classes would claim 16% share out of the 50 vacancies. If 8 vacancies are given to them then in the cadre of 100 posts the reserve categories would be holding 24 posts there by increasing the reservation from 16% to 24%. On the contrary if the roster is permitted to operate till the total posts in a cadre are to be filled by the same category of persons whose retirement etc. caused the vacancies then the balance between the reserve category and the general category shall always be maintained.



We make it clear that in the event of non-availability of a reserve candidate at the roster point it would be open to the State Government to carry forward the point in a just and fair manner. Resultantly, in the instant case, roster points 4, 8 and 14 (meant for the SC category but consumed by the General category candidates) would be deemed to have been carried forward to points 11, 12 and 20 (meant for the General category) and given to the SC category to give them due representation in service as per the reservation Policy. This is just and fair adjustment against carried forward roster points in terms of the law laid down. Therefore, the promotion of fourth respondent by reserving roster point 20 for employees belonging to the SC category cannot be termed in violation of law.

9. In view of the discussion, this petition, CWP-7869-2023, is dismissed. The connected petition, CWP-6714-2024, is allowed and the order, dated 12.03.2024, is hereby set aside. The fourth respondent shall be deemed to continue in service on the promotional post of Personal Assistant from the date of promotion vide order dated 11.04.2023, and shall be entitled to all consequential benefits except salary for the period of reversion as Senior Scale Stenographer.

10. Pending miscellaneous application(s), if any, shall also stand(s) dismissed.

11. A photocopy of this order be placed on the connected file.

01.09.2025

Ad

Whether speaking/reasoned?
Whether reportable?

(TRIBHUVAN DAHIYA)
JUDGE

Yes/No
Yes/No