
(2025) 11 P&H CK 1906

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12656 Of 1997

Anil Kumar Yadav And Others

APPELLANT

Vs

State Of Haryana ETC

RESPONDENT

Date of Decision : 04-11-2025

Acts Referred:

Constitution Of India, 1950 — Article 226, 227

Citation : (2025) 11 P&H CK 1906

Hon'ble Judges : Sandeep Moudgil, J

Bench : Single Bench

Advocate : Sandeep Sharma, Rohan Moudgil, Mayuri Lakhanpal Kalia, R.K. Malik, Sandeep Dhull

Final Decision : Dismissed

Judgement

Sandeep Moudgil, J

1. Prayer

The jurisdiction of this Court has been invoked under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the selection and appointments made vide order dated 02.04.1997 (Annexure P-8) of private respondents No.3 to 12 to the post of Agriculture Development Officers (ADOs) and to further issue a writ in the nature of mandamus seeking directions to the respondents to make appointments to the post of Agriculture Development Officers in accordance with the law laid down by the Division Bench of this Court in Jaskaran Singh's case and to prepare a common merit list of all the reserved and unreserved candidates and to select the backward classes category candidates as per their own merit, who are higher in merit than General Category candidates and to fill up the posts reserved for Backward Class Category from amongst the remaining Backward Class Category candidates as per their merit.

2. Facts:-

Before proceeding further the factual aspects evolving in the instant petition can be culled to record that on 09.02.1996, 134 posts of Agriculture Development Officers (ADOs) out of which 18 posts were kept reserved for SC-A category and 17 for SC-B category whereas 08 posts were earmarked for BC -A and 6 for BC-B category.

Apart from above that one post was meant for ESM (A, B, C) and one for ESM BC-B category. Further 3 posts were meant for ESM (general category) and accordingly 80 posts were left out for the general category.

The petitioners belong to BC category, who applied for the said post for which interview was held from 24.12.1996 till 03.01.1997. The petitioners were also called for the said interview as has been demonstrated vide a tabulated chart at Annexure P-3 showing roll numbers and date of interview for each of the petitioners belonging to BC-A and BC-B.

After conclusion of the interview, result was declared vide publication in the newspaper on 07.03.1997 (Annexure P-4), and the candidate who secured 71 to 83 marks in the general category were selected for the said post.

In the BC-A category, the candidates securing 81, 80, 79, 76, 72, 70 and 68 marks were shown to be selected, whereas in the BC-B category, the candidates having obtained 80, 79, 78, 78, 76 and 75 marks got selected.

The petitioner No.1 was placed in the waiting list at Sr. No.4 of BC-B category having secured 70 marks.

Subsequently a corrigendum was issued vide publication in the Tribune dated 08.03.1997 (Annexure P-4/A), with certain changes in the original result to the effect that petitioner No.10, who was earlier shown to be selected in to BC category, who was originally selected in SC category was added in the list of selected candidates of BC-B category.

It is the above-said selection process after declaration of the result has been assailed in the instant petition particularly in the changes made through a corrigendum dated 08.03.1997 (Annexure P-4/A) alleging the same to be illegal and against the mandate of Division Bench of this Court passed in *Jaskaran Singh vs. State of Punjab*, 1995 (1) SLR 641.

3. Contentions

On behalf of the petitioners

Mr. Sandeep Sharma, learned Advocate for the petitioners would argue that a candidate, who belonging to the reserved category if secures more marks than the general category candidates he should be considered in the general category for selection and not against the reserved category. It is stated that the candidates belonging to BC-A and BC-B category have secured 72 to 80 marks but are shown selected in the reserved category of backward class, though according to the last selected candidate in the general category the cut off is 71

marks. Mr. Sharma would also contend that petitioner No.3 made a representation to respondent No.2/The Subordinate Services Selection Board (SSSB) with a request to give the detail of his marks secured in the interview and similar representations were made by other petitioners as well to which they were informed that the petitioner No.2 secured 66 marks, petitioner No.3 68 marks, petitioner No.4 65 marks, petitioner No.5 65 marks, and petitioner No.7 63 marks, while referring to the communication dated 27.03.1997 (Annexure P-6).

It is also asserted before this Court that the representation was made on 06.03.1997 (Annexure P-7) asking for complete list of selected candidates alongwith their marks. However, without furnishing the said detail to which the respondent No.2 is actually bound as per note-2 of the result (Annexure P-4-A),

In addition to above, second argument raised that the benefit of reservation of 27% to the BC category has not been made available by the respondents during the process of selection, who went on to issue the appointment letter dated 02.04.1997 (Annexure P-8) to all the selected candidates. In support of this argument, reliance has been made to a notification dated 20.07.1995 (Annexure P-9) showing increase in the reservation from 10% to 27 % in last three and four service matters for the BC category.

It is the contention of Mr. Sharma that if the quantum of reservation is increased to 27%, out of the advertised 134 posts, it would be the 36 posts to the share of BC category, but only 15 posts have been filled in BC-A and BC-B category.

Lastly, the counsel would rely upon a larger Bench decision of the Apex Court in R.K. Sabharwal and Ors. vs. State of Punjab and Ors. passed in

Writ Petition (Civil) 79 of 1979 to say that the reserved category candidates can compete for non-reserved posts in the event of their appointment to the said post their number cannot be added and taken into consideration for working out percentage of reservation.

Further, it has been urged upon by the petitioners that the reserved categories cannot be restricted to only the reserved seat, as reservation for SC and ST would entitle them a seat in the general category as well, if they get higher merit in entitling them general category appointment referring to a Division Bench judgment of this Court in Jaskaran Singh vs. State of Punjab passed in CWP-10053-1994.

Reference has also been made to Bhupinder Kaur and ors. vs. Vanita and Others passed in CWP-10669-CAT of 2010 decided on 28.01.2011 by the Division Bench in the same context.

No other argument has been raised on behalf of the petitioners.

Separate written statements have been filed on behalf of respondents No.1 and respondents No.3 to 12.

Learned counsel for respondent No. 1 submitted that respondent No. 2, the Subordinate Service Selection Board, conducted interviews for the posts of Agriculture Development Officers between 24.12.1996 and 03.01.1997, in which the petitioners participated. The results were published on 02.03.1997, followed by a corrigendum in The Tribune on 08.03.1997 making certain corrections. Thereafter, on 02.04.1997, the Selection Board recommended 134 candidates for appointment, and the Department accordingly issued appointment letters to 16 candidates across various reserved categories—BC (A): 8, BC (B): 6, ESM-BC (A): 1, and ESM-BC (B): 1.

It is further submitted that petitioner No. 1's name appeared at serial No. 4 in the BC (B) waiting list, however only candidates recommended by the Selection Board were issued appointment letters, and his name was not among them, no appointment was granted to him.

Learned counsel further stated that respondent No. 2 advertised the post of Agriculture Development Officer through advertisement No. 5/2009, Category No. 01, and later, on 23.07.2012, recommended 256 candidates, including petitioner No. 2, Shri Sudhir Yadav. Accordingly, he was issued an appointment letter on 28.12.2012 and joined the Department the same day, where he continues to serve.

It was submitted that respondent No. 2 recommended petitioner No. 7, Shri Kuldeep Singh, through advertisements No. 3/2008 and 01/2009, for which he was appointed on 16.12.2010 and continues in service. Similarly, petitioner No. 6, Shri Tarun Verma, was recommended on 24.08.2006, appointed on 01.09.2006, and later resigned on 26.05.2010, which was accepted w.e.f. the same date. It was further contended that petitioner Shri Anil Kumar Yadav's name was never interviewed, and preparation of merit lists, lies solely with respondent No. 2, while the Agriculture Department merely issues appointment letters to candidates recommended as per rules.

On behalf of respondents No.3 to 12

Learned counsel for respondents No. 3 to 12 submitted that 134 posts of Agriculture Development Officers were advertised on 09.02.1996 and recommendations were made on 25.03.1997. As per Government instructions (Annexure R-3/1), all vacancies arising within one year of selection were to be filled from the same list. Since 110 more posts became available by March 1998, including 55 for the General Category, the answering respondents, being within merit positions 96 to 107, were rightly appointed.

It was further contended that juniors to the answering respondents were appointed but not impleaded, and therefore, the appointments already made cannot be disturbed. Having joined in April 1997 and served for over three and a half years, some leaving prior Government service, the respondents' appointments are protected on the principles of estoppel and equity. They cannot be placed at a disadvantage vis-à-vis ad hoc employees whose services were

regularised after two years.

Lastly, it was argued that the petitioners' claim for 27% reservation for Backward Classes is untenable since the posts had arisen prior to 20.07.1995, when the reservation was only 10%. Hence, the appointments of respondents No. 3 to 12 are valid and deserve to be upheld.

4. Analysis

In the present case, the undisputed facts reveal that 134 posts of Agriculture Development Officers (ADOs) were advertised on 09.02.1996, out of which 18 were reserved for SC-A, 17 for SC-B, 8 for BC-A, 6 for BC-B, and the conducted by the Subordinate Service Selection Board (respondent No. 2), conducted interviews held between 24.12.1996 and 03.01.1997. The result was published on 02.03.1997 and later corrected by a corrigendum issued on 08.03.1997. Thereafter, on 02.04.1997, the Board recommended 134 names for appointment, and the Agriculture Department issued appointment letters strictly in accordance with that recommendation.

The grievance raised by the petitioners against the corrigendum dated 08.03.1997 also appears to be without substance. The corrigendum only rectified minor discrepancies in the original publication of results and did not alter the selection procedure or merit position arbitrarily. The petitioners have failed to produce any cogent material to demonstrate mala fides or procedural irregularity in the action of respondent No. 2.

This Court is of the considered opinion that the petitioners, having consciously and voluntarily participated in the selection process initiated by the respondent department, cannot now be permitted to assail the same after having remained unsuccessful therein. The advertisement under which the recruitment was conducted clearly delineated the number of posts reserved for various categories, specifying that under the Backward Classes category, 8 posts were earmarked for BC-A and 6 posts for BC-B candidates. It was, therefore, manifest that the reservation policy as it stood prior to the issuance of the Government instructions dated 20.07.1995 was being implemented for the said recruitment.

At no point prior to the commencement of the selection process, or even during its preliminary stages, did the petitioners raise any objection to the said reservation breakup or to the applicability of the pre-1995 policy. Having willingly subjected themselves to the rules of the game, the petitioners cannot, after the entire process has concluded and after having been found unsuccessful, MEENU turn around to challenge the very same terms of recruitment on the ground that the respondent ought to have applied the enhanced reservation quota of 27% as per the policy/instructions dated 20.07.1995.

It is a settled proposition of law that a candidate who participates in a selection process with full knowledge of its terms and conditions is estopped from subsequently questioning those very terms after being declared unsuccessful.

The principle of estoppel by conduct and the doctrine of acquiescence squarely apply in the present case. Reliance in this regard may be placed on the judgment of the Supreme Court in "Sadananda Halo v. Momtaz Ali Sheikh (2008) 4 SCC 619" wherein, it was held as under:—

"59. It is also a settled position that the unsuccessful candidates cannot turn back and assail the selection process. There are of course the exceptions carved out by this Court to this general rule. This position was reiterated by this Court in its latest judgment in Union of India v. S. Vinodh Kumar (2007) 8 SCC 100 The Court also referred to the judgment in Om Prakash Shukla v. Akhilesh Kumar Shukla 1986 Supp SCC 285, where it has been held specifically that when a candidate appears in the examination without protest and subsequently is found to be not successful in the examination, the question of entertaining the petition challenging such examination would not arise....."

Accordingly, the belated challenge raised by the petitioners after completion of the entire recruitment process and only upon their non-selection appears to be an afterthought and devoid of legal merit. Their plea alleging violation of the reservation policy dated 20.07.1995 (Annexure P-9), at this stage, stands barred by the principles of estoppel and doctrine of waiver, and thus cannot be entertained. Therefore this contention is of no avail to the petitioners and stands rejected.

Moreover, respondents No. 3 to 12 were appointed strictly in accordance with merit and within the validity period of the waiting list. The law is well settled that vacancies arising within a reasonable period after selection can be filled from the same waiting list. The services of the appointees/respondents who had already served for several years cannot be interfered with, as equity and public interest demand stability in service matters. The same principle was reiterated in "Karamjit Kaur v. State of Punjab, 2019 (3) SCT 162", wherein it was held that courts should refrain from unsettling appointments made long ago, even if procedural irregularities are alleged, owing to the efflux of time and the settled rights of employees. Relevant extract of the same is as below:

"60. Courts have time and again held, in cases where the selection of a person is bad for various reasons, but due to passage of time and having being served in the Department for substantial period of time, courts have refused to interfere the selection irrespective of the illegality only on account of efflux of time.

61. Similar view had also been taken by the Hon'ble Apex Court in Gujarat State Dy. Executive Engineers Association v. State of Gujarat 1994(3) SCT 325 : 1994 Supp (2) SCC 591 where in it has been held that:

"11. The entire appointment of direct recruits, therefore, from the waiting list was not proper. But these persons have been appointed and are working now at least for five years. It would, therefore, be unjust and harsh to quash their selection at this stage. Therefore, while refraining from quashing the appointment made in pursuance of the direction issued by the High Court, we are

of the opinion that the waiting list for one year cannot furnish source of recruitment for future years, except in very exceptional cases.....”

In the present case, the private respondents have been in continuous service since 1997, faithfully discharging their duties for over two decades. During this long period, they have not only contributed to the functioning of the institution but have also built their lives, careers, and families around the security of their employment. To disturb their settled service positions at this belated stage would be to visit upon them a hardship that is both disproportionate and inequitable. It would not merely unsettle individual lives but also risk causing serious administrative disruption, affecting the functioning of the institution and the welfare of those dependent on its services. In the pursuit of justice, it is essential to balance technical legality with human realities, ensuring that the passage of time and the accrued legitimate expectations of the respondents are given their due weight. Equity, compassion, and reasonableness demand that their decades of dedicated service not be disregarded lightly.

In view of the foregoing analysis, this Court finds that the selection process was conducted in accordance with the prescribed procedure as per the advertisement issued by the respondents, the recommendations were duly acted upon, and the petitioners have failed to establish any arbitrariness in the actions of the respondents.

Accordingly, the writ petition being devoid of merit stands dismissed.

No order as to costs.