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**(2008) 01 P&H CK 0194**  
**In the Punjab And Haryana At Chandigarh**

Kusum Chahal

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

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**Date of Decision :** 22-01-2008

**Acts Referred:**

**Citation :** (2008) 01 P&H CK 0194

**Hon'ble Judges :** Jaswant Singh, J; Jasbir Singh, J

**Bench :** Division Bench

**Final Decision :** Allowed

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## Judgement

Jasbir Singh, J.—Petitioner and respondent No. 5 were candidates for the post of Anganwari Worker in Village Bhukhri, District Ambala. Petitioner remained unsuccessful and respondent No. 5 was selected and appointed against the abovesaid post. Petitioner came to this Court challenging appointment of respondent No. 5 on the ground that she was less meritorious and even as per criteria adopted by the respondents, the petitioner was entitled to get higher percentage of marks, as compared to respondent No. 5. In response to the notice issued by this Court, written statement has been filed. Paragraph 8 of the written statement reads thus:

As per the criteria laid down by the department, the petitioner was entitled to 50 marks for her matriculation qualification as she had obtained more than 50% marks in that examination. She was also entitled to additional 3 marks for the senior secondary examination. However, so far her Prabhakar qualification is concerned, the same does not fall in the category of additional qualification for giving additional marks. Rest all the contents of para 8 of the petition are not disputed. It is submitted that the petitioner was given only 45 marks instead of 53 marks for her marks obtained in the matriculation examination and also additional qualification of 10+2, inadvertently by an oversight. There was no deliberate attempt to undermine the claim of the petitioner by giving lesser marks. When the mistake came to the light, the respondent No. 5 was verbally told about the mistake. She was told that the mistake has to be corrected.

Before she could be issued any show cause notice, she voluntarily resigned and vacated the post. However, according to the latest assessment of category- wise quota position, the post in question has been reserved for scheduled caste category candidates because of short fall in the said category at the block level. Since this post has been re- advertised and reserved for the scheduled caste category candidates, the petitioner could not be selected and called upon to join.

2. Reading of written statement clearly indicates that the official respondents have virtually admitted case of the petitioner. It is not in dispute that the petitioner was entitled to get higher marks, as compared to respondent No. 5 and be appointed against the post advertised in the year 2006. Merely because after filing of this writ petition the respondent No. 5 has resigned and the post has now been reserved for scheduled caste category and re-advertised, is no ground to decline the rightful claim of the petitioner. If the marks had rightly been given, at the time when the interview took place for the post in question, as per criteria adopted by the respondents, petitioner was bound to be selected against the post of Anganwari worker. It is not in dispute before this Court that her right was wrongly snatched away from her by committing deliberate mistake or otherwise by the respondents.

3. In view of the above facts, we allow this writ petition and direct the respondents to appoint the petitioner against the post of Anganwari worker which was advertised in the year 2006. Needful be done within six weeks from the receipt of a certified copy of this order.

4. Counsel for the petitioner very fairly states that if benefit of service is given to her, from the date when respondent No. 5 was taken in service wrongly, the petitioner will not claim any financial benefits. We order accordingly.