

CWP-7786-2019

SARABPREET KAUR AND OTHERS
VS
STATE OF PUNJAB AND OTHERS

Present: Mr. R.S. Kalra, Advocate,
for the petitioner(s).

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Petitioners, who are General category candidates, have inter alia impugned the selection process to the posts of Steno Typist in State of Punjab. According to him, selection has been made in gross violation of the reservation policy. Initially, 421 posts were advertised, out of which, 197 were for General category. As reservation exceeded 50%, petitioners represented to the authorities. Thereafter, posts were increased to 415. Out of these, 215 posts were shown for General category. Even, in this case, reservation exceeded 50%. At the time of declaration of result, however, petitioners noticed that the State had unilaterally increased the number of posts to 471 and out of which, only 218 were left for General category. According to him, in view of bar of reservation beyond 50% as laid down by the apex court, minimum posts for General category ought to have been 235.5. According to him, law on this issue crystallized in the judgment of Hon'ble Supreme Court in 'Jitendra Kumar Singh and anr. Versus State of U.P. and others, 2010(3) SCC 119. Relevant paras thereof reads as under:-

"35. These observations make it abundantly clear that the reservations should not be so excessive as to render the Fundamental Right under Article 16(1) of the Constitution meaningless. In Indra Sawhney (supra), this Court has observed as under:-

"In our opinion, however, the result of application of carry-forward rule, in whatever manner it is operated, shall not result in breach of 50% rule."

36. *Therefore, utmost care has to be taken that the 50% maximum limit placed on reservation in any particular year by this Court in Indra Sawhney case (supra) must be maintained. It must further be ensured that in making reservations for the members of the Scheduled Castes and Scheduled Tribes, the maintenance of the efficiency of administration is not impaired."*

Notice of motion.

On the asking of the court, Ms. Anu Chatrath, Addl.A.G., Punjab, who is present in court, accepts notice on behalf of the State. She prays for some time to address the court. She shall be at liberty to seek instructions from Chief Secretary, Punjab and apprise the court whether the law laid down in Jitendra Kumar Singh's case (supra) is being followed in letter and spirit and whether there is any other department/service where, at the time of recruitment, reservation is exceeding 50%. Ten days' time is granted.

To come up on 23.04.2019.

Reply be filed at least a day prior to the next date of hearing.

In case, appointment letters have not yet been issued pursuant to the selection process, issuance thereof shall remain stayed.

A copy of this order be handed over to learned State counsel under the signatures of Bench Secretary.

(RAJAN GUPTA)
JUDGE

March 20, 2019
sukhpreet