

2025 LiveLaw (SC) 425

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

SUDHANSHU DHULIA; J., K. VINOD CHANDRAN; J.

APRIL 9, 2025.

CIVIL APPEAL NO(S). --- OF 2025 [@ SPECIAL LEAVE PETITION (CIVIL) NO(S). 17747 OF 2023]

PRABHJOT KAUR versus STATE OF PUNJAB AND ORS.

Recruitment Process - Reservation – Punjab Civil Services (Reservation of Posts for Women) Rules, 2020 – Advertisement for Recruitment – Scheduled Caste Sports Category – Horizontal Reservation – Roster System – Change in Recruitment Rules Midway – Held, reservation notified in advertisement cannot be cancelled by subsequent roster change. The recruitment process, governed by the 2020 Rules mandating 33% horizontal reservation for women, was valid. The roster system introduced on 29.01.2021, after the application deadline, could not retrospectively alter the terms of the advertisement. The Supreme Court allowed the appeal challenging the High Court Division Bench’s order remanding the matter for fresh adjudication. The Court upheld the Single Judge’s order dismissing the private respondent’s writ petition, which sought to quash the reservation of a Deputy Superintendent of Police (DSP) post for ‘Scheduled Caste Sports (Women)’ under Advertisement No. 14 dated 11.12.2020. The appellant, being the only qualified female candidate in the ‘SC Sports (Women)’ category, was entitled to the DSP post. The private respondent, who participated without protest and applied under a different category, could not claim the reserved post. [Relied on: *K. Manjusree v. State of A.P.*, (2008) 3 SCC 512; *Tej Prakash Pathak v. High Court of Rajasthan*, [2024 LiveLaw \(SC\) 864](#); Para 21 - 24]

[Arising out of impugned final judgment and order dated 18-07-2023 in LPA No. 287/2023 passed by the High Court of Punjab & Haryana at Chandigarh]

For Petitioner(s): Mr. P. S. Patwalia, Sr. Adv. Mr. Anurag Kulharia, Adv. Mr. Sumit Kumar Sharma, Adv. Dr. Navya Jannu, Adv. Ms. Aakriti Jain, AOR Mr. Rajat Sangwan, Adv. Mr. Shikhar Narwal, Adv.

For Respondent(s): Mr. Rajat Bhardwaj, A.A.G. Mr. Karan Sharma, AOR Mr. Gurminder Singh, Sr. Adv. Mr. Raj Kishor Choudhary, AOR Mr. Shakeel Ahmed, Adv. Mr. Lalit Singla, Adv. Ms. Pratibha Singh, Adv. Mr. Himanshu Gupta, Adv.

J U D G M E N T

SUDHANSHU DHULIA, J.

1. Leave granted.
2. By way of the present appeal, the appellant challenges an order of the Division Bench of the Punjab and Haryana High Court at Chandigarh passed on 18.07.2023.
3. This appeal involves the question of reservations of posts in the government services of the State of Punjab; including reservation for women. It is necessary here to elaborate upon some essential facts of this case in order to better appreciate the controversy before us. These facts are as follows:
 - a. On the basis of a requisition issued by the State government on 17.04.2020, the Respondent no. 4-Punjab Public Service Commission (‘Public Service Commission’) issued advertisement no. 08 on 04.06.2020 for recruitment to 77 posts in the State government services through the Punjab State Civil Services Combined Competitive Examination-2020. This included the 26 posts of Deputy Superintendent of Police (‘DSP’) with which we are presently concerned. The preliminary examination was tentatively

scheduled for September 2020 while the last date for submitting online applications was fixed as 30.06.2020.

b. In this advertisement, which is advertisement no.08, some seats were reserved for members of the SC community. For our purposes, it is relevant that a total of two vacancies were advertised for 'Scheduled Caste Sports'-one for DSP and the other for Deputy Superintendent (Jails)/District Probation Officer ('DSJ/DPO').

c. Respondent no. 5 herein ('private respondent') applied in the 'Scheduled Caste Sports' category on 09.06.2020. Appellant too had applied as SC Sports candidate.

d. Meanwhile, on 21.10.2020, the Punjab Civil Services (Reservation of Posts for Women) Rules, 2020 ('2020 Rules') were made and notified.

e. These Rules are applicable to all posts to be filled by direct recruitment in all government establishments in Groups A, B, C, D services, and importantly it provided for 33% reservation for women in all posts. Under the 2020 Rules, this reservation is to be horizontal and compartmentalized, which means reservation within each category of Scheduled Castes, Scheduled Tribes, Backward Classes, Other Backward Classes, Economically Weaker Sections, and Open Category. Sub-rule 5 of the 2020 Rules provides for the procedure for reservation of posts.

f. In light of the notification of the 2020 Rules, the State government withdrew its requisition dated 17.04.2020, on which was based the advertisement no.08 dated 04.06.2020, which was issued by the Public Service Commission. The reason being that now a fresh requisition would have to be now issued in compliance with the 2020 Rules, which mandated 33% reservation for women. As a result, on 08.12.2020, the State government wrote to the Public Service Commission asking for the withdrawal of advertisement no.08 dated 04.06.2020 (a public notice with respect to withdrawal of the advertisement no.08 was issued by the Public Service Commission on the very next day i.e. 09.12.2020).

g. On 11.12.2020, the Public Service Commission issued a new advertisement which is advertisement no.14. However, there was a material difference when it comes to reservations for the 'SC Sports' category. This time, only one post for 'SC Sports' was available, but this was now for the post of Deputy Superintendent (Jails)/DPO. Thereafter, one DSP post was reserved for 'SC Sports (Women)', a category which was created pursuant to the 2020 Rules.

h. It is pertinent to note that in accordance with the decision taken to avoid undue inconvenience to such candidates who had applied earlier under the previous advertisement no.08 (04.06.2020), it was decided that such candidates need not apply afresh under the new advertisement no.14 (11.12.2020), and their earlier applications would be considered.

i. The last date for submitting applications in terms of fresh advertisement no.14 was 30.12.2020.

j. On 29.12.2020, an amendment was made to the 2020 Rules which provided for 33% reservation for women as per the roster system contained in 'Annexure A'.

k. Pursuant to the amendment, the State government issued a 100-point roster for different reserved posts in the State government services on 29.01.2021.

l. After successful completion of the Punjab State Civil Services Combined Competitive Examination-2020, the results were declared on 18.06.2021.

m. In the merit list, the private respondent stood 1st amongst males, while the appellant stood 1st amongst females, under the 'SC Sports' category.

n. On 14.10.2021, the private respondent made a representation to the Chief Minister of Punjab, alleging that the DSP post for 'SC Sports' should not have been reserved for women, and that this is in violation of the roster issued by the State government on 29.01.2021.

o. The private respondent then filed a Writ Petition before the High Court praying for quashing of the advertisement no.14 dated 11.12.2020, not in its entirety, but only to the extent that it reserved the DSP post under the 'SC Sports' category for women, in violation of the roster of 29.01.2021, and further praying for directions to the State government to appoint the private respondent as DSP against the 'SC Sports' seat.

p. An interim order passed on 16.12.2021 in the Writ Petition filed by the private respondent recorded that the counselling for the post of DSP 'SC Sports (Woman)' seat was kept in abeyance by the State. Aggrieved by this, the appellant also filed a Writ Petition before the High Court. Both these Writ Petitions were decided by way of a common order dated 03.03.2023 by the learned Single Judge, which has given rise to the present litigation.

4. In a well-considered decision, the learned Single Judge dismissed the private respondent's Writ Petition (consequently, the appellant's Writ Petition was adjudged infructuous). At the outset, the learned Single Judge notes that the private respondent had not challenged the subsequent advertisement no.14 dated 11.12.2020 in its entirety, but only insofar as it reserved the DSP post under the 'SC Sports' category for women. It was also noticed that even though the private respondent had applied in the earlier round under advertisement no.08 and he did not apply under the subsequent advertisement no.14 in light of the leeway given to candidates who had already applied, his application must be considered under advertisement no.14 dated 11.12.2020, which did not have any post for DSP 'SC Sports' (since the only DSP post against the 'SC Sports' category came to be reserved for women under the 2020 Rules). There was no post other than Deputy Superintendent (Jails)/DPO 'SC Sports' for which the private respondent's application could be considered. Resultantly, the private respondent (i.e., the Petitioner before the High Court) cannot be appointed to a post i.e. DSP 'SC Sports' which was reserved for 'SC Sports (Women)'. Meanwhile the private respondent who had in any case made the selections, joined the post of Deputy Superintendent (Jails), albeit under protest.

5. The learned Single Judge highlighted the fact that the roster points fixed by government communication dated 29.01.2021 came only after the last date for submission of applications under the fresh advertisement no.14, which was 30.12.2020. Further, the State government never revised/reviewed the requisition in light of the roster, and hence, the requisition for one DSP post for 'SC Sports (Woman)' continued.

6. The private respondent challenged this order of the learned Single Judge by filing a Letters Patent Appeal, which went before the Division Bench of the High Court.

7. The Division Bench laid emphasis on the contradictory stand adopted by two departments of the State government before the learned Single Judge during the proceedings in the Writ Petition(s). While the Home Department took the view that the DSP post was reserved, for the 'SC Sports (Women)' category, the Department of Social Justice was of the view that the DSP post in question should be reserved for 'SC Sports' (in other words, it should not be reserved for women alone). The Division Bench was of the opinion that the learned Single Judge accepted the stand taken by the Home

Department while arriving at his decision. The Division Bench, however, called upon the Chief Secretary of Punjab to resolve the conflict between the stands taken by the two above-mentioned Departments of the State Government. The Chief Secretary supported the stand of the Department of Social Justice, on the ground that a mistake had crept into the advertisement no.14, and that the DSP post should have been reserved for 'SC Sports', and not 'SC Sports (Women)'.

8. In light of the stand taken by the Chief Secretary, the Division Bench remanded the matter to the learned Single Judge for fresh adjudication of both the Writ Petitions (filed by the appellant and private respondent, respectively). This is the order which has been challenged before us by the appellant.

9. Sri P.S. Patwalia, learned Senior Counsel, appearing for the appellant, would submit that the learned Single Judge had considered the contradictory stands taken by the Home Department and Department of Social Justice before passing a well-reasoned order, which the Division Bench ought not to have interfered with. Learned Senior Counsel further argues that the stand of the Chief Secretary before the Division Bench is incorrect since the roster was issued nearly two months after the last date of submitting application forms under the advertisement no.14 expired, and it cannot be implemented retrospectively. The learned Senior Counsel would also argue that the principle applicable to horizontal reservation is different from the one applied to vertical reservation and horizontal reservation has no concept of 'roster system', where only vertical reservation applies.

10. On the other hand, Sri Gurminder Singh, learned Senior Counsel representing the private respondent, would argue that the advertisement no.14 of 11.12.2020 is violative of the 2020 Rules to begin with. Vertical reservations in terms of the 2020 Rules have to be within each horizontal category, and the reservation of one post for DSP for women within the SC category cannot be sustained in the eyes of the law. The learned Senior Counsel would also place reliance on the amendment to the 2020 Rules, in terms of which 33% reservation for women has to be as per roster points introduced on 29.02.2021. Hence, it is incorrect to state that the roster points would not apply to the advertisement no.14 because the roster points apply from the date of the amendment to the 2020 Rules.

11. Sri Rajat Bharadwaj, learned Additional Advocate General appearing for the State of Punjab, would submit that this appeal deserves to be dismissed since it has been filed prematurely, because all that the Division Bench did by way of the impugned order was direct a fresh adjudication of the matter on merits in light of what had been submitted by the Chief Secretary of the State. On merits, the learned Additional Advocate General fully supported the stand taken by the Chief Secretary before the Division Bench, which was that the DSP post in question was erroneously reserved for 'SC Sports (Woman)', and as a result, the advertisement no.14 deserves to be withdrawn and a fresh advertisement issued.

12. Regarding reservations for women the learned counsel for the private respondent would argue that although the 2020 Rules provide the percentage of reservation for women to be 33%, these have not been correctly applied. This issue was highlighted by the DGP while sending the fresh requisition pursuant to which the subsequent advertisement no.14 of 11.12.2020 was issued. It is the case of the private respondent that in the absence of roster points under the original (unamended) 2020 Rules, which 2 posts out of the 7 DSP posts under the SC category would be reserved for women was not clear. Hence, the requisition itself was premature since the manner of reservation of posts for women within the scheme of vertical reservation was not yet finalized. The

private respondent would thus seek to convince this Court that the manner in which 33% reservations are to be provided to women was under active consideration by the State government when the fresh advertisement no.14 of 11.12.2020 was issued.

13. The private respondent draws our attention to the amendment to the 2020 Rules, notified on 29.12.2020 (i.e. one day before the last date for submitting application forms under advertisement no.14), which provided for the manner of implementing 33% reservation for women as per roster points provided in Annexure 'A'. According to this, no reservation for women is provided for the 'SC Sports', but the State government failed to amend the advertisement and carry out the changes in advertisement no.14. Furthermore, the amendment to the 2020 Rules and the notification introducing the roster points were never challenged by any party before any Court, and have thus attained finality. The implementation of the roster system of 29.01.2021 introduced in pursuance of the Amendment to the 2020 Rules would not amount to a retrospective application of the same since substitution of a provision results in repeal of the earlier provision, i.e., old rule ceases to exist and the new rule is brought into existence in its place. In other words, the roster system takes effect from 29.12.2020, i.e., before the last date of submission of applications under advertisement no.14, since that is the day on which the 2020 Rules were amended. The private respondent also argues that advertisement no.14 of 11.12.2020 was an extension of the earlier advertisement no.08 of 04.06.2020, since the manner of implementation of the 2020 Rules was never clarified by the State government earlier. The State government is bound to follow Statutory Rules and not the advertisement which in this case is contrary to the 2020 Rules. Further, by participating in the selection process, the private respondent accepted the prescribed procedure. Lastly, the private respondent argues that even if he is appointed to the post of DSP SC Sports, the appellant will be appointed DSJ SC Sports (post which he presently occupies).

14. Heard all the parties and perused the material on record.

15. The Chief Secretary of the State filed an affidavit on directions of the Division Bench to the effect that the DSP post in question was erroneously reserved for 'SC Sports (Woman)' and the advertisement no.14 deserves to be withdrawn and a fresh advertisement issued. But the fact is that this was never done. In fact, even the private respondent did not challenge the advertisement no.14 in its entirety (nor did anyone else). Hence, the advertisement no.14 dated 11.12.2020 holds the field and it is only under this advertisement that the respective rights of the appellant and private respondent can be determined.

16. The roster on which the private respondent is relying upon came later, on 29.01.2021, even after the last date for submitting applications under the subsequent advertisement no.14 of 11.12.2020 had passed. Hence, it cannot influence the rights and entitlements of those who had applied and taken part in the recruitment process under the advertisement no.14 of 11.12.2020. The recruitment process had begun with the publication of the advertisement calling for applications and the process ends with filling of the vacancies. The selection process had begun and midway changes could not have taken place.

17. As per advertisement no.14 dated 11.12.2020, there was only one post of DSP against 'SC Sports', which was reserved for women under the 2020 Rules, when 33% reservation was mandated for women. The private respondent simply cannot be appointed to this post.

18. It must be remembered that the private respondent participated in the entire recruitment process without protest, and made a representation only after the merit list was released by the Public Service Commission. Though the private respondent was not exempted from applying afresh pursuant to advertisement no.14 of 11.12.2020, it was not open for the private respondent to plead ignorance of the terms of the advertisement at such a belated stage.

19. What is important to be noted here is that the present Petitioner applied under the category “SC Sports (Women)” which we may add, at the cost of repetition, was a category created pursuant to the 2020 Rules, in order to meet the mandate of reservation of 33% seats for women. The private respondent on the other hand, applied under the category “SC Sports (80).”

20. Consequently, both the Petitioner as well as the private respondent came to be selected against their respective categories. On 26.04.2022, private respondent was appointed as Deputy Superintendent (Jails) and on 10.03.2023. The Petitioner being the only SC Sports (Women) to have qualified is now likely to be given the post of DSP.

21. We have already taken note of the two contradictory stances which were taken by the Department of Home and the Department of Social Justice, Empowerment & Minorities, which prompted the Division Bench to direct the Chief Secretary to bury the hatchet. On the other hand, the learned Single Judge proceeded to decide the issue by accepting the stance taken by the Department of Home which was that the post of DSP was rightly reserved against the category “SC Sports (Women)” on which the Petitioner was selected. We are in agreement with the findings of the learned Single Judge for the reason that once an eligibility criteria was declared by means of a fresh Advertisement i.e. Advertisement No. 14 dated 11.12.2020, the same cannot be changed midway through the recruitment process, as the same would tantamount to ‘*changing the rules of the game, after the game is played*’ as held by this Court in *K. Manjusree v. State of A.P.*, (2008) 3 SCC 512.

22. We must also take note of the fact that the correctness of *K. Manjusree* (supra) was doubted by a three-Judge Bench of this Court in *Tej Prakash Pathak v. High Court of Rajasthan*, (2013) 4 SCC 540 and the matter was referred to a Constitution Bench, which ultimately, held that *K. Manjusree* (supra) is good law which still holds the field and it is not at variance with earlier precedents and hence, the salutary principle laid down in *K. Manjusree* (supra) that the State or its instrumentalities cannot tinker with the ‘*rules of the game*’ once the recruitment process commences was ultimately upheld by the five-Judge Constitution Bench in *Tej Prakash Pathak v. High Court of Rajasthan*, (2025) 2 SCC 1. While answering the reference, this Court concluded as follows:

“65. We, therefore, answer the reference in the following terms:

65.1. Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up of vacancies;

65.2. Eligibility criteria for being placed in the select list, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness;.....”

23. Once it is accepted that the DSP post in question was reserved for ‘SC Sports (Women)’ as per advertisement no.14 of 11.12.2020, the appellant must be accepted as

the only person qualified in her category who could be appointed. This is because she is the only SC woman candidate who successfully cleared all the tests for the post of DSP.

24. The crucial date in the present case is the advertisement dated 11.12.2020. This advertisement follows the 2020 Rules where 33% of reservation was to be made for women on every government post. Thus, DSP SC Sports was reserved for women. This was mentioned in the advertisement dated 11.12.2020. This advertisement or the 2020 Rules were never challenged. The respondents now cannot cry foul referring to an event post 11.12.2020 where the so called roster system came into existence. We have not even considered the need to examine the legality of this roster in principle. Sufficient will it be for our purpose to hold that post 11.12.2020 no change could have been made.

25. We thus allow the appeal and set aside the impugned order passed by the Division Bench, by upholding the order of the learned Single Judge dated 03.03.2023. The directions given in the judgment dated 03.03.2023 shall be complied within three weeks from today.

26. Pending application(s), if any, stand(s) disposed of.

27. Interim order(s), if any, stand(s) vacated.

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