IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No. 2856 of 2017
Decided on: 19.06.2026

Sapna Kumari …….. petitioner

Versus

The Chief Manager, HRD Department,
PNB and another …….respondents

Coram:
Hon'ble Mr. Justice Bipin Chander Negi, Judge
Whether approved for reporting? [1]

For the petitioner	**:**	Ms. Archana Dutt, Advocate.
For the respondents	**:**	Mr. Ajay Kumar Sood, Sr. Advocate, with Mr. Rohit, Advocate, for respondent No.1.
	:	Mr. Tek Chand Sharma, Advocate, for respondent No.2.

Bipin Chander Negi, Judge (oral)

The present petition has been filed seeking the following reliefs:-

1. That this writ petition may kindly be allowed and the writ in nature of certiorari may kindly be issued and the appointment of the respondent No.2 may very kindly be quashed and set side.

2. That the respondent No.1 may very kindly be directed to appoint the petitioner against the post of Part Time sweeper being figuring at Serial No.1 in the waiting list of the merit list by issuing a writ of mandamus.

3. That if the prayer No.2 is allowed in that eventuality, the petitioner may very kindly be given seniority from the day all other candidates have been granted.

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[1] *Whether the reporters of the local papers may be allowed to see the judgment?*

2. Advertisement in the case at hand had been issued inviting applications from eligible candidates for filling up 27 posts of Part-Time Sweepers in the Subordinate Cadre in the branches under Hamirpur Circle consisting of Hamirpur, Una and Bilaspur Districts. A copy of the advertisement has been placed on record as Annexure P-1. The age prescribed as per the advertisement as on 01.01.2016 was a minimum of 18 years and a maximum of 24 years. Relaxation in age was prescribed in the advertisement. Insofar as Scheduled Castes and Scheduled Tribes candidates were concerned age relaxation of five years was permissible. In the case of OBC and Ex-servicemen candidates, age relaxation of three years was permissible. The last date for receipt of applications was 30.12.2016. The number of vacancies advertised were distributed in the following manner:-

1. 15 General
2. 6 scheduled Castes.
3. 5 OBC
4. 1 Scheduled tribes.

3. In pursuance to the aforesaid advertisement, both the petitioner and respondent No.2 had applied. In terms of Circular Letter bearing No.10 of 2016 dated 04.06.2016 (Annexure P-2). Post receipt of the applications, the same were to be shortlisted category-wise (General, SC, ST and OBC). After doing the same, eligible candidates were to be placed in the merit

list considering their age and qualification. Merit lists were to be prepared separately for General, SC, ST and OBC categories.

4. Subsequent to the submission of the application, the petitioner was called for verification of documents and qualifications for recruitment to the post of Part-Time Sweeper on 11.03.2017, as is evident from letter dated 28.02.2017 (Annexure P-3 at page 20 of the paper book). The merit list prepared post verification of documents/qualifications has been appended along with the petition as Annexure P-4 (page 21 of the paper book). From a perusal of the same, it is evident that both the petitioner and respondent No.2 have been reflected in the Scheduled Castes category in the merit list appended at Annexure P-4. The petitioner's name figures at Serial No.7 and that of respondent No.2 figures at Serial No.10. From a further perusal of the merit list, it is evident that the petitioner, in the Scheduled Caste category, in order of merit, was at Waiting List No.1, whereas respondent No.2, in terms of merit, was placed at Serial No.1 in the General Category.

5. In the aforesaid backdrop, the sole contention raised on behalf of the writ petitioner is based on the merit list which has been placed at page 23 of the paper book. It is contended that in terms of the advertisement, six posts had been advertised for the Scheduled Castes category. In terms of the order of merit as reflected in the merit list at page 23 of the paper book, six

candidates mentioned therein had been given appointment. As per the said merit list, the petitioner was at Serial No.1 of the waiting list, i.e. Serial No.7 at page 23 of the merit list. In the same list, respondent No.2 has been reflected under the category "Remaining Candidates" at Serial No.18. In the aforesaid backdrop, the appointment offered to respondent No.2 by respondent No.1 has been assailed.

6. In the reply filed by respondent No.1, it has been contended that in terms of the advertisement, the age limit was a minimum of 18 years and a maximum of 24 years. Insofar as candidates appearing in the Scheduled Caste category were concerned, as per the advertisement, age relaxation of five years was permissible. It has been contended in the reply that insofar as the petitioner was concerned, she had participated in the selection process on relaxed standards, as at 27 years of age she had been considered against the Scheduled Caste category solely by granting age relaxation. However, in the case of respondent No.2, it is contended that though the said candidate had appeared under the Scheduled Castes category, he had availed of no relaxed standards. Hence, his case could be considered against the General Category. In this respect, attention has been invited to Annexure R-3, which is a relevant extract of the IBA Brochure for SC/ST/OBC candidates (page 40

of the paper book). The relevant extract whereof reads as follows:-

> **Appointments to reserved vacancies**:-
>
> 2.2 (i) xxxx xxxxx xxxxx
>
> (ii) xxxxx xxxx xxxx
>
> (iii) With effect from 19.7.1989 in cases of direct recruitment the SC and ST candidates who are selected on their own merit without relaxed standards along with candidates belonging to the other communities, will not be adjusted against the reserved share of vacancies. The reserved vacancies will be filled up separately from amongst the eligible SC and ST candidates which will thus comprise SC and ST candidates who are lower in merit than the last candidate on the merit list but otherwise found suitable for appointment even by relaxed standards, if necessary

7. Heard counsel for the parties. Perused the pleadings.

8. As per the advertisement in the case at hand for the post in question, an age limit had been prescribed for General Category candidates. The age limit was 18 to 24 years. Age relaxation of five years was permissible in the case of reserved category candidates. Respondent No. 2 had participated in the selection without obtaining any relaxation in age. However, insofar as the petitioner is concerned, she was 27 years old when she participated in the selection process and, hence, she was permitted to participate in the same based on an age relaxation granted in terms of the advertisement in favour of a reserved category candidate.

9. Since respondent No. 2 had participated in the selection process without obtaining any benefit of relaxed standards in terms of the age limit as prescribed in the advertisement, hence, in terms of Clause 2.2 (III) of the IBA Brochure for Scheduled Castes/Scheduled Tribes/OBC candidates (page 40 of the paper book), reproduced supra, the case of respondent No. 2 was considered against the unreserved category. The case of the petitioner could not be considered against the unreserved category on account of the fact that she had participated in the selection process on relaxed standards, as she had availed of an age limit relaxation prescribed in the advertisement in the case at hand.

10. Whether a reserved category candidate who has availed relaxation in the upper age limit to participate in a selection process with General Category candidates can be recruited against an unreserved seat would depend upon the facts of each case. In terms of the law laid down by the Apex Court in ***Union of India and others vs. Sajib Roy, SLP (C) Nos. 21392-21393 of 2019***, decided on ***September 09, 2025 (2025 INSC 1084) 2026 SCC Online SC 457 titled Chaya and others vs. State of Maharashtra and another,*** followed by a Division Bench of this Court in ***LPA No. 506 of 2024 titled Mohit Gupta vs. State of H.P. and others,*** it is well settled that reserved category candidates who have availed of concession/relaxation

can only be permitted to migrate to an unreserved seat if the rules so permit. As has been stated supra in the case at hand. Migration of a reserved category candidate to the General Category is permissible only if the reserved category candidate has participated in the process not on relaxed standards. In the case at hand, respondent No.2 has not availed any relaxation and the rules permit his case to be considered against the unreserved post.

In view of the aforesaid facts, attending circumstances & the settled principle of law, the present CWP being devoid of any merit is dismissed, so also the pending miscellaneous applications, if any.

(Bipin Chander Negi)
Judge

19th June, 2026
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