



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-20526-2025

Reserved on:08.09.2025

Pronounced on: 01.10.2025

Vinay Sahotra

.....Petitioner

VERSUS

The Punjab State Power Corporation Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Abhishek Thakur, Advocate for the petitioner.

Mr. Akash Vashisth, Advocate for the respondents-PSPCL.

HARPREET SINGH BRAR, J.

1. The present petition has been preferred under Articles 226/227 of the Constitution of India seeking setting aside of order bearing Endorsement No.267/71 dated 19.05.2025 (Annexure P-8) passed by respondent No.3-Deputy Secretary (Recruitment), PSPCL, whereby the claim of the petitioner to be considered in the Backward Class category for recruitment to the post of Assistant Engineer/OT (Electrical) was declined.

FACTUAL BACKGROUND

2. Tersely put, the facts are that the respondent-PSPCL issued an advertisement dated 27.11.2024 (Annexure P-1) for recruitment to 25 posts of Assistant Engineer/OT (Electrical Cadre) in the Discipline of Electronics and Communication Engineering, where 02 posts were reserved for

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candidates from the Backward Class category, one of which was further reserved for women. The petitioner appeared in the Graduate Aptitude Test in Engineering (GATE) 2024 wherein he scored 30 out of 100 marks, above the cut off for Backward Class category. A merit list was published by respondent-PSPCL where the petitioner stood at serial No.17.

3. The petitioner submitted a self-declaration stating that he belongs to Jhinwar community within the Hindu religion, which has been recognised as Backward Class by the Department of Social Justice, Empowerment and Minorities, Government of Punjab vide notification dated 03.09.1955 (Annexure P-9). However, on the date of issuance of the said notification, the permanent residence of the grandfather of the petitioner was in Tehsil Una, District Hoshiarpur, which was a part of the State of Punjab till the year 1996 but currently forms a part of the State of Himachal Pradesh. The father of the petitioner moved to the State of Punjab in the year 1999 and the petitioner was born here as well. A clarification was issued by the relevant department wherein it was stated that persons belonging to Backward Class/Other Backward Class who have migrated from other states to the State of Punjab would not be entitled to the benefit of reservations here. However, he can claim that benefit in the state of his origin i.e. Himachal Pradesh. Accordingly, the claim of the petitioner was rejected vide the impugned order dated 19.05.2025 (Annexure P-8). Hence, the present petition.

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**CONTENTIONS**

4. Learned counsel for the petitioner contends that the petitioner is a domicile of the State of Punjab and belongs to Jhinwar community, admittedly recognised as Backward Class by the Government of Punjab vide notification dated 03.09.1955 (Annexure P-9). The petitioner appeared for GATE pursuant to the advertisement dated 27.11.2024 (Annexure P-1) and stood first in the Backward Class (hereinafter 'BC') category, as discernible from the Merit List (Annexure P-2). After declaration of the result, the petitioner appeared before the Document Checking Committee on 07.01.2025 and produced all his original documents including the Backward Class Certificate (Annexure P-4) and the Domicile Certificate (Annexure P-3). However, vide letter dated 07.01.2025, he was instructed to furnish a fresh Residence Certificate and BC category certificate. Accordingly, the petitioner furnished the said documents issued by the Tehsildar, Amritsar, which are available at Annexures P-6 and P-7. Further, on 27.01.2025, the office of respondent No.3 requisitioned the revenue record from the petitioner showing that his ancestors belongs to domicile of Punjab in 1955 i.e. the year of issuance of notification dated 03.09.1955(Annexure P-9). The petitioner submitted the same via email, which clearly showed that the grandfather of the petitioner was a bona fide resident of Tehsil Una, which formed a part of composite State of Punjab. Learned counsel contends that there was no clause in advertisement (Annexure P-1) which allowed the



Document Checking Committee to take any self-declaration from the candidates.

5. He further submits that the respondent-PSPCL issued a press note dated 28.01.2025 claiming to have issued appointment letters to 22 candidates, however their names and categories were not mentioned. The petitioner ultimately filed *CWP-8019-2025* titled *Vinay Sahota vs. Punjab State Power Corporation Limited and others* wherein, vide order dated 21.03.2025, the respondent-PSPCL was directed to decide the representation of the petitioner. Consequently, impugned order dated 19.05.2025 (Annexure P-8) was erroneously passed rejecting the claim of the petitioner to be considered for recruitment under BC category stating that migrants belonging to BC cannot claim the benefit of reservation. The petitioner was born and brought up in District Amritsar, as is apparent from his birth certificate (Annexure P-10). However, when the notification dated 03.09.1955(Annexure P-9) was issued, the grandfather of the petitioner was a resident of the erstwhile State of Punjab that included Tehsil Una, which currently falls under the domain of State of Himachal Pradesh. Since the place of residence of the grandfather of the petitioner i.e. Tehsil Una formed a part of State of Punjab when the notification dated 03.09.1955(Annexure P-9) was issued, the petitioner cannot be considered to be a migrant. Reliance in this regard is placed on the judgment rendered by this Court in *Gurvinder Singh vs. State of Punjab and others* in *LPA-1040-2018* decided on 21.02.2023.

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6. *Per contra*, learned counsel for respondent-PSPCL contends that the petitioner had submitted a self-declaration (Annexure R-3/1) stating that he belongs to Jhinwar caste, which was notified as a BC vide notification dated 03.09.1955(Annexure P-9). He also stated that his father moved to the State of Punjab in the year 1999 from Tehsil Una, which came within the limits of State of Himachal Pradesh post reorganisation in the year 1966, and that the petitioner was born in District Amritsar, State of Punjab. As such, the petitioner is a migrant belonging to BC and cannot claim benefits of reservation in terms of clarification issued by the Ministry of Social Justice and Empowerment, Government of India vide letter dated 25.11.2002 (Annexure P-16).

OBSERVATIONS AND ANALYSIS

7. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioner had registered himself for the GATE, in pursuance of advertisement (Annexure P-1) for recruitment to the post of Assistant Engineer/OT (Electrical). The petitioner cleared the exam by scoring 30 out of 100 marks, while the cut off for BC category was 22.5 marks. However, at the time of document verification, a controversy arose with regard to the eligibility of the petitioner for reservation meant for candidates from BC category as he had submitted a self declaration (Annexure R-3/1) stating that he has been a permanent resident of the State of Punjab since the year of his birth i.e. 2000.

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8. A notification dated 03.09.1955(Annexure P-9) was issued by the Government of Punjab providing a list of castes recognised at Backward Classes. The petitioner belongs to the Jhinwar community, which finds mention therein at serial no.13. A perusal of the letter dated 27.06.2025 (Annexure P-11) issued by Gram Panchayat, Gondpur Banehra, Tehsil Amb, District Una indicates that the grandfather of the petitioner namely Bansi Lal was a resident thereof prior to the year 1955. The said area fell under District Hoshiarpur of the State of Punjab, however, upon reorganisation that occurred in the year 1966, it became a part of District Una, State of Himachal Pradesh. The father of the petitioner obtained a job with the Bureau of Immigration and moved to District Amritsar, State of Punjab in the year 1991, as indicated by Annexure P-15. Subsequently, the petitioner was born in the year 2000 in District Amritsar itself.

9. Further, vide letter dated 25.11.2002 (Annexure P-16 colly), Ministry of Social Justice and Empowerment, Government of India, the following clarification was issued:

“2. Further, it may be clarified that in the case of migrant OBCs, the crucial date for considering the OBC as 'migrant of origin' should be taken as the date of issue of notification "applicable in the case of beneficiary". Similarly, in the case of persons born after the date of issue of the relevant notification, the place of residence for the purpose of according backward class status, is the permanent abode of their parents the time of the issue of the notification under which they claim to belong to such caste/community.”(emphasis added)

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Pertinently, the Ministry of Welfare, Government of India, vide letter dated 08.04.1994 (Annexure P-16 colly), the following was stated:

“In continuation of the DOPT's letter No. 36012/22/93-Estt. (SCT) dated 15th November, 1993, I am directed to say that it has been represented to this Department that persons belonging to OBCs who migrate from one State to another for the purpose of education, employment, etc. experience great difficulty in obtaining OBC certificates from the State to which they have migrated.

*In order to remove this difficulty, it has been decided that the prescribed authority of a State/Union Territory Administration in terms of DOPT's letter No. 36012/22/93- Estt.(SCT) dated 15.11.199 **may issue the OBC certificate to a person who has migrated from another State on the production of a genuine certificate issued to his father by the prescribed authority** of the State of the father's origin except where the prescribed authority feels that a detailed enquiry is necessary through the State of origin before the issue of the certificate.*

*2. The certificate will be issued irrespective of whether the OBC candidate in question is included in the list of OBCs in the State/UT to which the person has migrated. **The OBC status of the person in relation to the State/UT of his origin does not get altered merely by migration.***

*The OBC person on migration from one State/UT to another State/UT is entitled to the concessions/benefits admissible to the OBC from the state of his origin and Union Government but **not from the state where he has migrated.***

3. It is requested that all competent authorities may be advised to issue the OBC certificate after satisfying themselves of the genuineness of the certificate. The list of the competent authorities

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empowered for the purpose as per DOPT's circular dated 15th November 1993 may be referred to.” (emphasis added)

10. A perusal of the abovementioned clarifications indicate that in order to ascertain eligibility of an applicant for a caste-based certificate, the place of permanent abode of their father at the time of the notification is to be looked at. While the grandfather of the petitioner was a resident to the erstwhile State of Punjab, his father resided in the State of Himachal Pradesh since its creation in the year 1966. Admittedly, he only moved to the State of Punjab in the year 1999, clearly connoting that he does not belong to this State originally. Further, both the grandfather and father of the petitioner were employees of the Central Government, however, it remains unclear whether they availed benefits of reservation under the BC category in respect of the State of Himachal Pradesh.

11.1. A Constitution bench of the Hon'ble Supreme Court in ***Marri Chandra Shekhar Rao vs. The Dean, Seth G.S. Medical College (1990) 3 SCC 130*** has categorically held that the benefit of reservations to members of the Scheduled Castes/Scheduled Tribes cannot be made available country-wide, as they are dependent on state-specific social conditions. Speaking through Justice Sabyasachi Mukherjee, the following was observed:

“9. It appears that Scheduled Castes and Scheduled Tribes in some States had to suffer the social disadvantages and did not have the facilities for development and growth. It is, therefore,

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*necessary in order to make them equal in those areas where they have so suffered and are in the state of under development to have reservations or protection in their favour so that they can complete on equal terms with the more advantageous or developed sections of the community. Extreme social and economic backwardness arising out of traditional practices of untouchability is normally considered as criterion for including a community in the list of Scheduled Castes and Scheduled Tribes. **The social conditions of a caste, however, varies from state to state and it will not be proper to generalise any caste or any tribe as a Scheduled Tribe or Scheduled Caste for the whole country.** This, however, is a different problem whether a member of the Scheduled Caste in one part of the country who migrates to another State or any other Union Territory should continue to be treated as a Scheduled Caste or Scheduled Tribe in which he has migrated. That question has to be judged taking into consideration the interest and well being of the Scheduled Castes and Scheduled Tribes in the country as a whole.”*

(emphasis added)

11.2 Further, a two-Judge bench of the Hon’ble Supreme Court in *M.C.D. vs. Veena (2001) 6 SCC 571* has clarified that migrants cannot avail reservations under the BC category in a state where they have immigrated. Speaking through Justice S. Rajendra Babu, the following was opined:

*“6. Castes or groups are specified in relation to a given State or Union Territory, which obviously means that such caste would include caste belonging to an OBC group in relation to that State or Union Territory for which it is specified. **The matters that are to be taken into consideration for specifying a***

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particular caste in a particular group belonging to OBCs would depend on the nature and extent of disadvantages and social hardships suffered by that caste or group in that State. However, it may not be so in another State to which a person belongs thereto goes by migration. It may also be that a caste belonging to the same nomenclature is specified in two States but the considerations on the basis of which they been specified may be totally different. So the degree of disadvantages of various elements which constitute the data for specification may also be entirely different. **Thus, merely because a given caste is specified in one State as belonging to OBCs does not necessarily mean that if there be another group belonging to the same nomenclature in other State and a person belonging to that group is entitled to the rights, privileges and benefits admissible to the members of that caste.** These aspects have to be borne in mind in interpreting the provisions of the Constitution with reference to application of reservation to OBCs.”(emphasis added)

11.3 It should also be noted that providing recruitment to the petitioner would also mean denying the same to a better suited person belonging to the BC category, in relation to the State of Punjab. Notably, the intention of the respondent-Corporation to recruit eligible candidates from the State of Punjab is clearly decipherable from the advertisement (Annexure P-1) which reads as follows:

“4.0 RESERVATION

- (i) **The reservation of posts for reserved categories is applicable for candidates of Punjab Domicile only. Candidates are required to produce proof in this regard at the time of document checking.** Please note that women reservation shall

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be provided to those women candidates who are domicile of Punjab State and will submit proof in this regard at the time of document checking.

- (ii) *Candidates are advised to read the category wise breakup of posts very carefully before filling up the online application. **If any candidate applies against any reserved category to which he/she belongs, then he/she should possess reservation certificates in accordance with Govt. of Punjab instructions for that category/sub-category.** The candidates are advised to fill/select their category carefully & with due diligence. The category once selected by a candidate will not be changed under any circumstances and the candidature of such candidate who applies against the category to which he/she does not belong shall be rejected without giving any further notice.*

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12.1 The intention of the Legislature with regards to notification of a community as ‘Backward Class’ can be deciphered from a study of Article 342A of the Constitution of India, which clearly shows that such inference is to be made with respect to ‘any State or Union Territory.’ The said provision is reproduced below:

“Article 342A Socially and educationally backward classes

*(1) The President may **with respect to any State or Union Territory**, and where it is a State, after consultation with the Governor thereof, by public notification, specify the socially and educationally backward classes in the Central List which shall for the purposes of the Central Government be deemed to be socially and educationally backward classes in relation to that State or Union territory, as the case may be.*

(2) Parliament may by law include in or exclude from the Central List of socially and educationally backward classes

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specified in a notification issued under clause (1) any socially and educationally backward class, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

Explanation.—For the purposes of clauses (1) and (2), the expression “Central List” means the list of socially and educationally backward classes prepared and maintained by and for the Central Government.

*(3) Notwithstanding any contained in clauses (1) and (2), **every State or Union territory may, by law, prepare and maintain, for its own purposes, a list of socially and educationally backward classes, entries in which may be different from the Central List.***” (emphasis added)

12.2. Notifying a community as ‘backward’ would inherently be contingent on their history in a specific geographical area. Such determination is not made merely on the abstract idea of the identity of a community but honours its struggles by acknowledging the demonstrable evidence of disadvantage. It is not necessary that the same community faces identical hindrances all across the nation, as such, it would be unwise to understand this facet of the constitution as an attempt to provide blanket reservation. In fact, the very spirit behind the concept of affirmative action would be defeated if the same is done in a fashion that devoid of context and nuance.

12.3. Inspiration can also be taken from the judgment passed by a Constitution Bench of the Hon’ble Supreme Court in ***Bir Singh vs. Delhi***

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Jal Board and others (2018) 10 SCC 312 wherein it was specifically held that the reservations made in lieu of Article 16(4) of the Constitution of India, shall be subject to the geographical limits of the State where a certain caste is notified in this context. Speaking through Justice Ranjan Gogoi, the following was opined:

"2. In State of Uttaranchal v. Sandeep Kumar Singh and others, (2010) 12 SCC 794 [Civil Appeal No.4494 of 2006) the following question arose for consideration of this Court :

"Whether a person belonging to a Scheduled Caste in relation to a particular State would be entitled or not, to the benefits or concessions allowed to Scheduled Caste candidate in the matter of employment, in any other State?"

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34. It is an unquestionable principle of interpretation that interrelated statutory as well as constitutional provisions have to be harmoniously construed and understood so as to avoid making any provision nugatory and redundant. If the list of Scheduled Castes/Scheduled Tribes in the Presidential Orders under Article 341/342 is subject to alteration only by laws made by Parliament, operation of the lists of Scheduled Castes and Scheduled Tribes beyond the classes or categories enumerated under the Presidential Order for a particular State/Union Territory by exercise of the enabling power vested by Article 16(4) would have the obvious effect of circumventing the specific constitutional provisions in Articles 341/342. In this regard, it must also be noted that the power under Article 16(4) is not only capable of being exercised by a legislative

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*provision/enactment but also by an Executive Order issued under Article 166 of the Constitution. **It will, therefore, be in consonance with the constitutional scheme to understand the enabling provision under Article 16(4) to be available to provide reservation only to the classes or categories of Scheduled Castes/Scheduled Tribes enumerated in the Presidential orders for a particular State/Union Territory within the geographical area of that State and not beyond.** If in the opinion of a State it is necessary to extend the benefit of reservation to a class/category of Scheduled Castes/ Scheduled Tribes beyond those specified in the Lists for that particular State, constitutional discipline would require the State to make its views in the matter prevail with the central authority so as to enable an appropriate parliamentary exercise to be made by an amendment of the Lists of Scheduled Castes/Scheduled Tribes for that particular State. Unilateral action by States on the touchstone of Article 16(4) of the Constitution could be a possible trigger point of constitutional anarchy and therefore must be held to be impermissible under the Constitution.*

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61. Accordingly, we answer the question referred in terms of the views expressed in para 34 of this opinion. We further hold that so far as the National Capital Territory of Delhi is concerned the pan India Reservation Rule in force is in accord with the constitutional scheme relating to services under the Union and the States/Union Territories.”

13. The issue of portability of caste or community based reservations arises when domicile is confused with ethnicity. The state of

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origin of a person is not ascertained with respect the place of his birth but has to be defined in terms of permanent abode of his parents at the time of issuance of the relevant notification. The constitutional philosophy acknowledges that the idea of 'backwardness' is contextual and territorial. While an individual can migrate to another area, however, the socio-economic disadvantages faced by a community residing in a particular geographical area historically do not migrate with him. Thus, the benefits of reservation are permanently rooted in one's ethnicity that denotes a shared culture and history. Allowing an approach where reservation is made portable across states would be violative of the principle of equitable distribution of resources as envisaged by the Constitution of India as it would amount to denial of benefits to those disadvantaged groups that they were originally intended for.

14. Further, revenue documents (Annexure P-14) submitted by the petitioners clearly states that they own ancestral property in village Gondpur Banehra, that currently falls under District Una, Himachal Pradesh, further buttressing the approach that Himachal Pradesh is the state of origin of the petitioner. It is no longer *res integra* that the date of migration to another state would also not be relevant to determine one's state of origin. In fact, if a person migrates to another State after the issuance of the Presidential Notification, they would be considered to be a migrant therein. Both the original migrants as well as their progeny will be regarded as migrants and

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not be provided with benefits of reservation in the state of immigration. Since the year 1966, the erstwhile composite state of Punjab ceased to exist and Tehsil Una, the area of permanent abode of the forefathers of the petitioner was placed under the State of Himachal Pradesh. As such, the connection between the geographical area of origin of the identity of the family of the petitioner i.e. Una cannot be severed on account of their subsequent move to the present State of Punjab in the year 1999.

15. Lastly, the Hon'ble Supreme Court in *Pankaj Kumar (supra)*, while holding that the benefits of reservation could only be claimed in either the State of Bihar or the State of Jharkhand, has also recognised that the benefits of reservation will not travel with a migrant to the state he chooses to settle in. Speaking through Justice Ajay Rastogi, the following was observed:

*41. By the judgments of the Constitution Bench of which the reference has been made (supra), **it has been settled that the person belonging to Scheduled Castes/Scheduled Tribes/OBC of th'e State, on migration to another State voluntarily or involuntarily, will not be entitled to claim benefits of reservation including privileges and benefits admissible to the member of the Scheduled Castes/Scheduled Tribes/OBC even though, the caste or tribe of the same nomenclature is notified in the latter State(State where migrated)** and if that is being permitted, the very expression as mandated under Articles 341(1) and 342(1) of the Constitution in "relation to the State" would become otiose and this issue remain no*

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more res integra after the pronouncements made by the Constitution Bench of this Court.

However, this judgment is distinguishable to the facts and circumstances of the present and does not help with the case of the petitioner. Owing to its unique factual matrix, the Hon'ble Supreme Court reached the conclusion that reservation could be claimed in either of the States upon balancing the constitutional mandate with the provisions of the Bihar Reorganisation Act, 2000 that provided continuity of service. The ratio culled out in *Pankaj Kumar (supra)* would only be applicable to those persons who were born in a unified State, prior to its reorganisation and were claiming benefits of reservation. Be that as it may, this approach cannot be applied to such persons who were born after creation of a separate state or their progeny. Therefore, the petitioner or his progeny will only be able to claim the benefits of reservation under the BC category in the State of Himachal Pradesh.

16. Further, the decision in *Gurvinder Singh (supra)* would also not come to the rescue of the petitioner as it dealt with the limited question regarding which would be the appropriate state to issue the caste certificate. In fact, the matter was already addressed by the letter dated 18.11.1982 issued by the Government of India wherein it was clarified that the state of migration could also issue the said certificate.

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**CONCLUSION**

17. In view of the discussion above, this Court is not satisfied with the arguments put forth by learned counsel for the petitioner. The petitioner can only claim the reservation for persons belonging to the BC category in the State of Himachal Pradesh, which was the permanent abode of the father of the petitioner since its creation in the year 1966. Accordingly, the present petition is dismissed.

18. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

October 01, 2025

P.C/Janki

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No