

LPA No. 1980 of 2013

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

LPA No. 1980 of 2013**Date of Decision: February 26, 2015****Shyam Lal**

...Appellant

Versus

State of Haryana & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE S. J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Ajay Shekhawat, Advocate
for the appellant.

S. J. VAZIFDAR, ACTING CHIEF JUSTICE (Oral):

This is an appeal against the order of the learned Single Judge dismissing the appellant's petition.

2. The appellant has contended that the allocation of marks to be allotted to the candidates who sought their appointment to the post of Tehsildar by transfer, is illegal. Five marks were allotted to those who had passed the metric with first division. The appellant states that some marks at least ought to have been allotted for persons who have obtained metric other than in first division. The process cannot be vitiated on this ground. It is for the employer to fix the marks to be allotted for judging the proficiency and eligibility of candidates seeking appointment or promotion. There is nothing irrational or unreasonable in the allocation of five marks allotted for the persons/candidates who have obtained the first division in the matriculation examination.

3 It was then contended that undue benefit was extended to two persons, namely, Bal Krishan and Rattan Singh. Bal Krishan and Rattan

LPA No. 1980 of 2013

Singh obtained 75 ½ and 66 marks respectively. The appellant was awarded only 42 marks. Even assuming that the appellant obtained 42 marks out of 80 marks and the other candidates obtained marks out of 100 marks, the appellant was lower in merit on his own showing.

4 It was lastly contended that seats in excess of those available were filled. Only seven seats were available and nine appointments were made. The learned Judge has rightly observed that as a normal rule this ought not not have been done. However, in the facts and circumstances of the case, it would not be expedient to set aside those appointments. The appellant himself would not be entitled to the same. Moreover, as noted by the learned Single Judge, there were exigencies that justified the same. Two seats were to fall vacant within a very short time and a provision was also made for a contingency by keeping yet another candidate on the waiting list. In the facts and circumstances of this case, there is no warrant for interfering in the learned Single Judge's appreciation of the fact regarding the existence of exigencies justifying the appointments.

5. The appeal is, therefore, dismissed.

(S. J. VAZIFDAR)
ACTING CHIEF JUSTICE

(AUGUSTINE GEORGE MASIH)
JUDGE

February 26, 2015
Harish