

In the High Court of Punjab and Haryana at Chandigarh

LPA No. 1193 of 2015(O&M)

Date of Decision: 19.8.2015

Abhimanyu Ambawta

---Appellant

versus

State of Haryana and others

---Respondents

**Coram: Hon'ble Mr. Justice S.S.Saron
Hon'ble Mrs. Justice Rekha Mittal**

**Present: Mr. Sanjay Jain, Advocate
for the appellant**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

S.S.Saron, J.

This appeal has been filed by the appellant against the order dated 11.5.2015 passed by the learned Single Judge in Civil Writ Petition No. 24066 of 2014 whereby the petition of the appellant has been dismissed. Alongwith the appeal CM No. 2534-LPA of 2015 has been filed seeking condonation of 52 days delay in filing the appeal.

The claim of the appellant is for grant of admission to the Rashtriya Indian Military College, Dehradun ("RIMC" for short) for the Session that had commenced in July 2014.

One of the contentions raised by learned counsel for the appellant is that candidates who have less than 50% of marks in aggregate in all the subjects were called for interview, which is in violation of the terms and procedure for admission to the RIMC. The appellant has thus been denied admission to the RIMC.

According to the appellant, the following candidates seeking admission to the RIMC in the Session that commenced in July 2014 were called for interview although they had less than 50% aggregate marks in all the subjects:-

1. Maitrayan Das
2. Darshan V. Harihar
3. M.Adhija Venkatesh
4. Vaiebhav Chettri
5. Jacob Lalchhanhima
6. Ravi Maitreya
7. V.S. Vaishaal Krishna

The relevant clause in the guidelines of admissions for the said claim is clause 7(j) which reads as follows:-

“Pass/cut of percentage- To pass the written examination, a candidate must score a minimum of 50% in all the subjects. On fulfilling the criteria, the candidates will be called for interview which he must pass again with minimum 50% marks.”

After giving our thoughtful consideration to the matter, it is to be noticed that admittedly the minimum marks in English was reduced from

50% to 40%, which was reduced across the board and was also reduced in the case of the appellant. Besides, the above clause 7(j) does not provide for 50% aggregate marks in all the subjects but it provides for 50% marks in each subject which in the case of English stands reduced to 40%. Therefore, the contention as raised is misconceived especially when the appellant himself availed of the benefit of less than 50% marks i.e. 40% in the subject of English.

The other contention raised by learned counsel for the appellant is that seats were earmarked for each State. However, allocated quota of seats of the States of Arunachal Pradesh, Goa, Kerala, Meghalaya and Nagaland were not consumed or seats were not filled due to non-availability of any candidate. According to the appellant, these seats were liable to be given for All India quota in respect of which separate All India merit list was prepared and the appellant is at Sr. No. 5 in the said merit; however, candidates lower in merit to the appellant were admitted.

In this regard, it may be noticed that the learned Single Judge noticed the submissions of the respondents that there was no pick and choose policy. The appellant (petitioner) was at Serial No. 5 of the reserve list and the candidate at Serial No. 7 was given admission though he was lower in merit because the candidate at Serial No. 7 of the reserve list belonged to the State of Uttar Pradesh and the selected candidate from the State of Uttar Pradesh was not found medically fit. Similarly, candidate namely Jacob Lalchhanhima at Serial No. 15 in the reserve list had been admitted against the vacant seat of State of Mizoram. Candidate at Serial No. 2 in the reserve list namely, Ajay Pratap Singh Jadon though hails from

State of Bihar but the seat of West Bengal was given to him because he was at Serial No. 2 in the reserve merit list whereas the appellant was at Serial No. 5. Therefore, candidates who are lower in merit than the appellant in the All India Merit List were given admissions against their respective States' quota as the candidate above them in merit were found ineligible and they were next in order of merit against the quota of their respective State.

The averment made by the appellant with regard to his claim in the writ petition is that grave injustice had been done to him because the vacant seats in the aforesaid States were not given inasmuch as he was denied admission against the seats which remained unfilled. In the corresponding reply, the respondents submitted that the sanctioned strength of RMIC is 250 seats and no candidate was given admission from the States of Arunachal Pradesh, Goa, Kerala, Meghalaya and Nagaland and students lesser than the allotted seats were given admission from the States of Andhra Pradesh, Bihar, Tamil Nadu and West Bengal. All the seats had been filled from the respective States. The seats for the July 2014 term had been filled up as per procedure and regulation on the subject in vogue. Only approved procedures were being followed for admission to RIMC. Thus, there was no question of any injustice caused to the petitioner. The said assertions of the respondents have not been admitted or controverted by the appellant

The learned counsel for the appellant has though submitted that in case the seats are indeed vacant of which he has knowledge, the appellant can be given admission in the current Session of July 2015 for which no

prejudice would be caused to the respondents. The same, however, would be quite iniquitous. The Supreme Court in Chandigarh Administration vs. Jasmine Kaur, (2014)10SCC 521 held that the schedule relating to admissions to the professional colleges should be strictly and scrupulously adhered to by all concerned including the Courts; besides, there cannot be telescoping of unfilled seats of one year with permitted seat of the subsequent year i.e. carry forward of seats cannot be permitted how much ever meritorious a candidate is and relief to the candidate is and deserved admission. In such circumstances, the Courts cannot grant any relief to the candidate but it is up to the candidate to reapply in the next academic year.

In the present case, no violation of any right of the appellant is shown inasmuch as no candidate lower in merit to him has been admitted to the RIMC for the Session July 2014. Besides, the stand of the respondents is that the seats for the July 2014 Session were filled as per procedure and regulations on the subject in vogue and only approved procedures were followed. To this there is no rebuttal by the appellant. Therefore, the reasoning given by the learned Single Judge while dismissing the writ petition of the appellant, does not warrant any interference in appeal. It may also be noticed that no person junior to the appellant had been admitted to RIMC. Besides, claim of the appellant is in respect of seats of Session July 2014 and at this stage when one year has passed since the session had commenced, it would be quite inappropriate to interfere at this stage.

In the circumstances, we do not find merit in appeal, the same is accordingly dismissed.

In view of the fact that the appeal has been dismissed on merits,

the question of delay of 52 days in filing the appeal is academic, the application seeking condonation of delay is also dismissed.

(S.S.Saron)
Judge

(Rekha Mittal)
Judge

19.8.2015

PARAMJIT