

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.1313 of 2016 (O&M)

Date of Decision: July 28, 2016

Ashok Beniwal

.....Appellant

versus

State of Haryana and another

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE DARSHAN SINGH**

Present: Mr.Kiranpal Singh, Advocate, for the appellant.
Ms.Palika Monga, Deputy Advocate General, Haryana.

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

Surya Kant, J. (Oral)

Notice of motion.

On our asking, Ms.Palika Monga, learned Deputy Advocate General, Haryana, accepts notice on behalf of the respondents.

Let two copies of the paper book be handed-over to her during the course of day failing which this order shall be automatically recalled and the appeal shall be deemed to have been dismissed for non-prosecution.

Heard learned counsel for the parties.

This intra-Court appeal challenges the order dated 11.07.2016 whereby learned Single Judge has dismissed the appellant's writ petition on the ground of delay and laches. Learned Single Judge observed that the appellant is claiming appointment through a writ petition filed in the year 2016, on the basis of outcome of the litigation which ended in the Supreme

Court in the year 2007. It may, however, might not be correct. We say so for the reason that though selection to Haryana Civil Services (Executive Branch) and allied services were finalized in the year 2004 but no appointments were made as the State Government directed a vigilance enquiry into fairness of the recruitment process. The vigilance enquiry was finalized in the year 2011. The report dated 09.11.2011 (P-6) given by the Director, State Vigilance Bureau, Haryana, is on record.

Thereafter, writ petitions were filed seeking appointment but those writ petitions were dismissed on 29.05.2015. The said decision was challenged in intra-court appeals where the vigilance enquiry was also examined. The State Government volunteered to offer appointment to those candidates who were fully exonerated. Those appeals were thus disposed of on 27.02.2016, with the observation that the candidates like the appellant against whom there were some remarks made by the State Vigilance Bureau are at liberty to represent the State Government.

Some of the candidates like the appellant did represent the State Government for their appointments and subsequently approached this Court by way of CWP Nos.5347, 7040, 10308 of 2016 etc. These writ petitions were disposed of by a learned Single Judge directing the State Government to look into and decide their claims in accordance with law.

In the light of the facts stated above, it appears that the order under appeal is in contradiction with the orders earlier passed by different Benches. Assuming that representations of the candidates lower in merit are accepted by the State Government and they are offered appointment, will it not amount to subjecting the appellant to hostile discrimination if his writ petition is dismissed on the ground delay and laches? The answer has to be

in affirmative.

For the reasons afore-stated, we allow this appeal in part; set-aside the order passed by learned Single Judge and dispose of the writ petition filed by the appellant, without expressing any views on the merits of his claim, with a direction to the State Government to consider his representation-cum-notice dated 27.05.2016 (P-11) alongwith the claims of other similarly placed candidates, like Shakti Singh, Anirudh Sharma and Manisha Aggarwal etc.

Let an appropriate decision be taken within a period of four months from the date of receiving a certified copy of this order.

Dasti.

**[SURYA KANT]
JUDGE**

July 28, 2016
mohinder

**[DARSHAN SINGH]
JUDGE**

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