

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

**LPA No.1835 of 2015 (O&M)  
Date of Decision : 03.02.2016**

Yatin Goyal and others

.... Appellants

Versus

State of Punjab and others

.... Respondents

**CORAM: HON'BLE MR. JUSTICE SATISH KUMAR MITTAL  
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present:- Mr. Harinder Sharma, Advocate  
for the appellants..

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**HARINDER SINGH SIDHU, J.**

This intra Court appeal under clause X of the Letters Patent has been filed against the judgment dated 03.09.2015 passed by the learned Single Judge, whereby the writ petition (CWP No.18529 of 2015) filed by the appellants challenging the order dated 20.03.2015 (Annexure P-8) declining their request for appointment/promotion as Masters/ Mistresses, has been dismissed.

Though there is delay of 16 days in filing the appeal and the appellants have filed application (CM No.3958-LPA-2015) for condoning the said delay, yet we have heard learned counsel for the appellants and have through the impugned order.

The appellants, who were working as Clerks/ Junior

Assistants in the Subordinate/Field Officers of the Education Department of Punjab, had filed the writ petition impugning the order dated 20.03.2015 whereby their request for appointments/promotions as Master/Mistress against the 1% promotional quota earmarked for the ministerial cadre/non-teaching staff in terms of letter dated 26.09.2001 was declined.

Vide the aforesaid letter, the Government had decided that the pending amendment in the Service Rules, instead of 10% quota from C & V Cadre for making promotions in the Master Cadre, it be made from 9 %. The remaining 1% posts in the master cadre be filled up from amongst ministerial cadre/ non-teaching staff.

It is the case of the appellants that after issuance of these instructions a large number of promotions were made from amongst the ministerial cadre/ non-teaching staff.

These instructions were withdrawn on 06.03.2014 (Annexure P-7) with immediate effect.

The claim of the appellants was that vacant posts prior to the issuance of letter dated 06.03.2014 should be filled up on the basis of instructions dated 26.09.2001. It was argued that the letter dated 06.03.2014 would have effect from the date it was issued and the vacancies existing prior thereto would be governed by the instructions dated 26.09.2001. This contention was rejected by the learned Single Judge by holding that right to promotion could only be based on Statutory Rules. The letter dated 26.09.2001 was only an administrative instruction, which expressly mentioned that the

amendment of the Rules would follow, but no such amendment was ever made. It was also noticed that in the case of **Nanak Chand Vs. State of Punjab and others** CWP No. 4274 of 2011 , this Court had expressed displeasure at instructions being issued contrary to Service rules and it was directed that in future no such instructions pertaining to service matters be issued without getting the same vetted from the Legal Remembrancer. Accordingly, the writ petition was dismissed.

Ld. Counsel for the appellant could not point out any illegality in the impugned order which is based on the the well established legal principle that administrative instructions cannot create any right or liability contrary to the Statutory Rules. As there is no provision in the service rules providing for promotion to the post of Masters/ Mistresses from amongst the Ministerial Cadre/ Non-teaching Staff, , the appellants cannot claim such a right based on administrative instructions which any case have been withdrawn.

Dismissed.

**(SATISH KUMAR MITTAL) (HARINDER SINGH SIDHU)**  
**JUDGE JUDGE**

**03.02.2016**  
**Atul**