

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.1762 of 2016 (O&M)

Date of Decision: September 09, 2016

State of Haryana and another

.....Appellants

versus

Ms.Sushma and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mr.R.D.Sharma, Deputy Advocate General, Haryana,
for the appellants.

-. -

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)

This intra-court appeal, preferred by the State of Haryana, is liable to be dismissed for multiple reasons briefly noticed hereinafter.

Firstly, there is a delay of 886 days for which an application for condonation of delay has been moved. The plea taken is that copy of the judgment of the learned Single Judge dated 18.02.2014 was received on 09.05.2014 and opinion from the office of the Advocate General, Haryana was received on 26.05.2014. Similarly, advise was given by the Legal Remembrancer, Haryana, on 11.08.2014.

After more than one year, the appellants decided to file a Review Application on 22.09.2015 which was dismissed on 04.03.2016.

Thereafter, the instant appeal has been filed on 26.07.2016

The time limit for filing an intra-court appeal is 30 days only whereas the appellants have taken more than one year in filing the Review Application. There is not even a whisper in the application for condonation of delay as to why they took over one year in filing the Review Application which could also be filed within 30 days only. There is thus no merit in the application and the same is dismissed. The accompanying appeal must go on this ground alone.

Secondly, the Management of the College also approached this Court through LPA No.1603 of 2014 in which the same contention, as has been raised by learned State counsel was raised on merits and it was turned down by a Coordinate Bench observing as follows:-

“..... The only argument addressed before us is that the work is not enough with the appellants to adjust two Lecturers. This stand taken by the appellants is to be considered only to be rejected. It was admitted before us as also before the learned Single Judge that there were two vacant sanctioned posts of Lecturers in Sanskrit which had become available during the pendency of the proceedings. No record or data was placed before us to substantiate the argument that the appellants could not adjust more than one Lecturer in Sanskrit. A perusal of the judgment of the learned Single Judge also shows that no such plea had also been raised before the learned Single Judge.....”

Thirdly, on merits also, we find no ground whatsoever to interfere with the order passed by learned Single Judge. The 1st respondent was appointed through an open competition and being at No.1 in order of

merit on 19.11.2008. Her selection was challenged by another candidate and pursuant to the directions issued by this Court, the merit of both the candidates was re-assessed. While the 1st respondent was awarded 54 marks, the other candidate was awarded 54.5 marks. It is on that basis that the other candidate (Suman) was brought at No.1 and respondent No.1 at No.2 in the merit list. The candidate at No.1, as per the reshuffled merit, has been appointed. The only question that arose for consideration was whether respondent No.1 who was working for the last more than five years, was liable to be relieved in such facts and circumstances? Taking into consideration the difference in merit of 0.5 marks only, learned Single Judge has held that the 1st respondent is entitled to continue against the other post(s) which has fallen vacant meanwhile.

In the peculiar facts and circumstances, the discretion exercised by learned Single Judge for the just and equitable consideration and in the interest of students, coupled with the fact that the 1st respondent need not to suffer for no fault on her part, calls for no interference.

Dismissed.

[SURYA KANT]
JUDGE

September 09, 2016
mohinder

[SUDIP AHLUWALIA]
JUDGE

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