

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.1905 of 2016 (O&M)

Date of Decision: September 27, 2016

State of Punjab and others

.....Appellants

versus

Jagjit Singh

.....Respondent

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

Present: Mr.Rajesh Bhardwaj, Additional AG, Punjab,
for the appellants.

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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)

[1] State of Punjab is in intra-court appeal against the order dated 17.08.2015 whereby learned Single Judge allowed the respondent's writ petition and has directed the appellants to appoint him on the post of Teaching Fellow reserved for Physically Handicapped category. A further direction has been issued to award the respondent arrears of pay for a period of three years preceding the date of filing of his first writ petition No.14427 of 2011. In addition, the appellants have also been burdened with cost of Rs.20,000/- on account of harassment caused to the respondent.

[2] A brief reference to the facts may be made.

[3] The respondent is a differently abled person. He was selected for the post of Teaching Fellow though he was in the waiting list. He was

Petition No.14427 of 2011 which was allowed in terms of an earlier order of this Court passed in CWP No.12886 of 2010 (Jagjit Kaur and others versus State of Punjab), holding the respondent entitled for appointment.

[4] The District Education Officer, Ludhiana, in purported compliance to the order vide which the earlier writ petition of respondent was allowed, passed an order after more than one year, i.e., on 12.12.2012 saying that the respondent would be appointed only if candidates higher in merit would not join or when posts reserved for Physically Handicapped category would remain vacant.

[5] The respondent then applied for information under the Right to Information Act and he was informed in the year 2013 that a vacancy in the Physically Handicapped quota was still lying vacant. The respondent further got information that there were 38 posts reserved for Physically Handicapped category which were to be divided in the ratio of 50:50 between men and women. Out of 19 vacancies which were to be filled up from amongst the special category to which the appellant belongs, only 8 posts were filled up and remaining 11 were lying vacant.

[6] It is in this backdrop that learned Single Judge allowed the claim of respondent and issued directions which have been briefly noticed in opening paragraphs of this order.

[7] The instant appeal is accompanied with an application for condonation of delay of 342 days in filing the appeal. It is averred that certified copy of the judgment dated 17.08.2015 was obtained on 03.11.2015 and opinion from the Advocate General, Punjab was taken on 13.11.2015. The application is thereafter conspicuously silent as to why the department took almost 10 months in filing the appeal when time limit for

filing an intra-court appeal is 30 days only. As there is no explanation whatsoever for the inordinate delay in filing the appeal, we dismiss the application. The accompanying appeal would also go alongwith the application.

[8] Having held so, we may venture into the merits of the case. The respondent was admittedly placed in the merit list. He is a differently abled person. Large scale posts reserved for that category remained vacant. Despite acceptance of his claim in the first round in the year 2011, the authorities took more than one year in passing a vague and evasive order that he would be offered appointment only if posts reserved for Physically Handicapped persons remain unfilled. No such appointment was offered as per the the promise though posts were lying vacant. The respondent was compelled to knock the doors of this Court second time.

[9] Taking into consideration totality of circumstances, we are not inclined to interfere with the discretion exercised by the learned Single Judge.

[10] Dismissed.

**[SURYA KANT]
JUDGE**

September 27, 2016
mohinder

**[SUDIP AHLUWALIA]
JUDGE**

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