

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-421-2016 (O&M)
Date of Decision: October 25, 2016

State Project Director

.....Appellant

Versus

Harinder Pal Singh and another

.....Respondents

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

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|----|---|---------|
| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |
| 4. | To be referred to the Reporters or not? | Yes/No |
| 5. | Whether the judgment should be reported in the Digest? | Yes/No. |

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Present: Mr.Anupam Singla, Advocate
for the appellant.

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SURYA KANT, J.

This Letters Patent Appeal is directed against the order dated 11.02.2016 whereby learned Single Judge allowed the respondent's writ petition and has directed to issue appointment letter for the post of 'Math Master' pursuant to his selection which took place in the year 2009.

The facts are not in dispute. Various posts of teachers including Math Masters were advertised by the appellant-Authority in August 2008. The selection was made on the basis of merit determined as per academic qualifications. The respondent was also selected. Since the respondent was not offered appointment, he firstly represented and then sought information under the Right to Information Act, 2005 (For brevity, 'the RTI'). Vide reply, dated 03.12.2010 (Annexure P-7), he was informed that appointment letter was issued to him vide Memo No.61609 dated 20.08.2009 but he did not

show any interest and failed to join the offered post.

As soon as the afore-stated information was received by him, the respondent immediately sent his reply dated 15.12.2010 (Annexure P-8), relevant part of which reads as follows:-

“I have got information through RTI Act that I was sent the appointment letter for Math Master vide office memo No.61609 of 20.08.2009 vide your letter no.18/1-2008/SSA/RTI/73596 dated 03.12.2010. The appointment letter was never received by the applicant.

Please issue me the appointment letter by hand and allow me to join as Math Master against 725 posts advertised in August, 2008. It is not my fault that I have not received the appointment letter. The address given in my application is correct therefore there was no occasion for not reaching the letter. Probably it may be because of wrong address or other fault that the letter has not been delivered to me.”

[emphasis applied]

Despite the respondent requesting to issue him appointment letter by hand and allow him to join the duties or his assertion that the earlier appointment letter was sent at a wrong address, no heed was paid to his claim. He then approached this Court through CWP No.3448 of 2011 which was disposed of on 25.02.2011 with a direction to the appellant to consider the respondent's claim for appointment strictly as per merit.

In purported compliance of those directions, the appellant passed the impugned order (Annexure P-10) in which nowhere it is averred that the appointment letter was sent either by registered post or that there is any report by the postal authorities that the respondent received or refused to receive the same. The Authority has merely reiterated that the appointment letter was

In this backdrop the learned Single Judge vide order under appeal has accepted the claim of the respondent directing to issue appointment letter to him without any monetary benefits for the past period.

Since one of the plea taken in this appeal was that the advertised posts have already been filled up, we directed the appellant to file an affidavit explaining whether the unfilled posts of the 2008 were carried forward to the subsequent selection process. In response thereto, an affidavit has been filed today in which it is admitted that there were 16 posts belonging to the advertisement year 2008 which remained unfilled and were carried forward.

We have heard learned counsel for the appellant and are of the view that no interference with the order under appeal is called for. It is not a case where the respondent slept over his right or abandoned his claim. As soon as the candidates were offered appointment in the months of August and September, 2009, he immediately submitted the representation and then sought information under the RTI. He has been running from pillar to post and came to this Court in the year 2011 also. It is, thus not a case where the respondent gave a second thought and then decided to secure appointment which he had allegedly decided to forego at the first instance.

No case to interfere with the order under appeal is made out.

Dismissed.

(SURYA KANT)
JUDGE

October 25, 2016
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(SUDIP AHLUWALIA)
JUDGE