

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.2534 of 2016 (O&M)

Date of Decision: March 02, 2017

State of Punjab and another

.....Appellants

versus

Reema Bansal and others

.....Respondents

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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Surya Kant, J. (Oral)

This letters patent appeal assails the order dated 12.04.2016 vide which learned Single Judge has accepted the claim of respondent No.1 for appointment to the post of Medical Officer (Dental) and she has been held entitled to notional benefits for the purpose of seniority from the date of initial appointment of the candidates who were part of original selection and some of whom were lower in merit than her.

[2] The facts are not in dispute.

[3] The Health Department, Punjab, invited applications for appointment to various posts including Medical Officers (Dental). The 1st respondent as well as respondent Nos.2 to 6 (who were private-respondents in the writ petition) applied for the above-stated posts. They were declared successful in the written examination. There arose, however, a dispute with regard to eligibility of respondent Nos.2 to 6. They approached this Court in a bunch of writ petitions and it appears that directions for their provisional appointments were issued. The State Government accepted that order and

as infructuous. State of Punjab challenged that order and its LPA was dismissed. The said order has attained finality.

[4] First respondent thereafter filed writ petition asserting her right to appointment on the plea that private-respondent Nos.2 to 6 were lower in merit and since they have got appointment, she too is entitled to the same. There was no dispute on facts that candidates lower in merit stood appointed. The only plea taken by the appellant-State before the learned Single Judge was that there were candidates at Sr.Nos.55 to 59 who were higher in merit than respondent No.1 and had preferential right to appointment. None of those candidates have approached the Court to seek appointment. Learned Single Judge observed that respondent No.1 was pursuing her claim in Court from last two years, whereas two candidates higher in merit who were not given appointment had not approached any forum. The claim of respondent No.1 was accordingly accepted and a direction for her appointment issued.

[5] We have heard learned Additional Advocate General, Punjab in support of this appeal who contends that the candidates lower in merit were not appointed by the State-authorities at their own, rather they came to be appointed through Court directions. He thus urges that it was not a case where the State has acted in violation of Articles 14 and 16 of the Constitution.

[6] Though there is a considerable merit in the contention that the State authorities themselves did not act on pick and choose basis but the fact remains that candidates lower in merit than respondent No.1 have got appointments. Her right to seek appointment accrued as soon as the candidates lower in merit were appointed. It is also undeniable that

sufficient vacant posts are there and respondent No.1 is fully qualified. No candidate higher in merit than her has come forward to seek appointment.

[7] In the light of these facts and circumstances, we decline to interfere with the order passed by learned Single Judge.

[8] Dismissed.

[SURYA KANT]
JUDGE

March 02, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

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

CM No.5264 of 2016 in
LPA No.2534 of 2016

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State of Punjab and another vs. Reema Bansal and others

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

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For the reasons mentioned in the application, the same is allowed
subject to all just exceptions and 211 days' delay in filing the appeal is
condoned.

CM stands disposed of.

(SURYA KANT)
JUDGE

March 02, 2017
mohinder

(SUDIP AHLUWALIA)
JUDGE