

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.101 of 2017 (O&M)

Date of Decision: 08.02.2017

State of Punjab & Anr.

... Appellants

VS.

Sonia Sharma & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

Present: Mr. Rajesh Bhardwaj, Addl. AG Punjab

SURYA KANT, J. (Oral)

(1) The State of Punjab has preferred this Letters Patent Appeal against the order dated 08.07.2016 vide which the private respondents (writ petitioner before learned Single Judge), who were in the waiting list, have been directed to be considered for appointment against the posts which remained unfilled due to non-joining of the candidates higher in merit.

(2) The facts are broadly not in dispute.

(3) 3422 posts for appointment in the Master cadre were advertised on 07.05.2011. The private respondents applied for the posts of Hindi Master and Science Master for which 863 and 953 posts, respectively were to be filled up. In the final selection list, the private respondents figured in the waiting list amongst the first 50 candidates though at different numbers. It was an admitted fact before the learned Single Judge that various candidates higher in merit whose name figured in the main selection list did not join due to which 45 posts of Hindi Master and 47 posts of Science Master remained unfilled in the open category.

(4) The only reason for not appointing the private respondents was that the State Government took a decision on 28.09.2013 (R1) to scrap the

posts in the Master cadre. Learned Single Judge, however, has found as a matter of fact that despite such decision taken on 28.09.2013, the waiting list was kept operative and appointments were made till 09.10.2013. The private respondents had also meanwhile represented for their appointment. Their claim having been not accepted, they approached this Court, some of them in the year 2013 itself while the others in the beginning of 2014.

(5) Learned Single Judge has further held that the claim of private respondents stood answered in their favour by an earlier decision of this Court dated 29.04.2016 rendered in **Sukhwinder Singh & Ors. vs. State of Punjab & Ors. (CWP No.6031 of 2014)** and other connected cases.

(6) The only plea taken on behalf of the State is that there are candidates higher in merit than the private respondents, who have a preferential right to seek the subject appointments.

(7) On a specific query by us on 23.01.2017 as to whether the other wait-listed candidates who are higher in merit than the private respondents, have approached this Court, learned State counsel on instructions from Sher Singh, Assistant Director O/o DPI Schools, fairly states that none of them has approached this Court or any other forum.

(8) In this view of the matter, the short question that falls for consideration is whether the candidates who have chosen not to ventilate their grievance or have sought the enforcement of their perceived right and are fence-sitters can obstruct the relief to which the private respondents, having approached the Court promptly, are entitled to?

(9) Such a question has been answered against the candidates higher in merit who did not approach the Court on time in a catena of decision including vide judgment dated 30.09.2016 rendered by this Court in

LPA No.1395 of 2015 (State of Punjab & Ors. vs. Manish Kathuria & Ors.) and other connected matters.

(10) For the reasons afore-stated coupled with the reasons already assigned by this Court in **Manish Kathuria's** case (supra), the instant appeal is dismissed.

(Surya Kant)
Judge

08.02.2017
vishal shonkar

(Sudip Ahluwalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No