

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**RSA No.1036 of 2016 (O&M)
Date of Decision: 14.03.2017**

Sachin Munjal

... Appellant

Versus

Sushil Kumar and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. R.S. Mamli, Advocate,
for the appellant.

Mr. Vinod Kumar, Advocate,
for respondent No.1.

Mr. R.T. Redhu, DAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

The Civil Surgeon, Fatehabad committed fraud in the recruitment process for filling various posts under the National Rural Health Mission Scheme by unilaterally, arbitrarily and without authorization from the State Government changing the criteria all by himself awarding marks for local area weightage thereby instead of prescribing twenty marks for “residents in PHC area” [as advertised] he changed the same to read “residents in local area”. Therefore, the selection stood vitiated by an illegality which could not be cured. The terms of the advertisement could not have been changed in a whimsical and arbitrary manner by the Civil Surgeon, Fatehabad, Haryana.

As a result of the unauthorised alteration of the terms and conditions of the selection, the defendant was unfairly picked up and

appointed to the post, whose appointment was challenged by the plaintiff in the suit which succeeded. The defendant who is the selected candidate is in appeal assailing the judgments and decrees of the Courts below. It is well settled that when the entry to service is illegal but not irregular, nothing external can cure it and the illegal appointment becomes no appointment in the eyes of law. By changing the criteria, the Civil Surgeon, Fatehabad had materially altered the entire complexion of the selection and subverted the process to favour the appellant for appointment.

I would, therefore, find no ground to interfere in the judgment and decree in appeal which is sound in law and fact and would dismiss the same.

(RAJIV NARAIN RAINA)
JUDGE

14.03.2017
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>