IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA no.1659 of 2017 (O&M)
Date of Decision :19.09.2017

Punjab State Power Corporation Ltd. And another

....Appellant(s)

Versus

Jatinder Singh Kapur and others

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE RAJ SHEKHAR ATTRI

Present : Mr.Shakti Kaushik, Advocate for
Mr. V.S.Bhardwaj, Advocate for the appellant(s)

Mr. Prateek Pandit, Advocate for caveator

MAHESH GROVER, J.(ORAL)

The appellants are in appeal against the judgment of learned Single Judge dated 26.5.2017.

The respondents are on caveat.

A selection process was carried out by the appellants pursuant to an advertisement dated 8.5.2015. The selected candidates were offered appointment in August, 2015 after checking their credentials. Some incumbents did not join. The respondents-caveators were the ones who were next in line for consideration. According to the own instructions of the appellants, Annexure P-21 and 22, if an incumbent did not join within 21 days, the candidate next in line was to be considered. No such process was followed and eventually even though the respondents pressed for their claim finally their claims were discarded on the ground that the select list stood extinguished on 1.8.2016.

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The respondents in their writ petition agitated for their claim for consideration in view of their being in the wait list which was valid but not exhausted only due to the laxity of the appellants.

Learned Single Judge by relying on atleast 2 precedents (i) **R.S.Mittal vs. Union of India, 1995 (3) SCT 284** and (ii) **Ritu d/o Sh. Nafe Singh vs. State of Haryana and others 2013 (3) SCT 281,** accepted the plea to allow the writ petition in the following terms:-

> "(i) Respondents will offer appointment to the petitioners in accordance with their merit and vacancy available, subject to their fulfilling all other eligibility criteria.
>
> (ii) The petitioners herein would be entitled to all notional benefits other than any remuneration for the period not worked.
>
> (iii) The seniority of the petitioners would be counted from the date candidates from the batch joined service.
>
> (iv) The respondents herein are also directed to complete the exercise an offer appointment within a period of 2 months from receipt of certified copy of this order.
>
> The writ petition stands accordingly allowed."

We find no reason to dis-agree with the aforesaid contentions particularly, when the appellants themselves were at fault in not offering consideration to the respondents when some of the selected candidates did not avail the assignment offered to them, leaving the post vacant. It was

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incumbent upon the appellants to extend the offer of employment to those who were next in the queue rather than defeat their claims on account of their inaction.

Hence, instant appeal is held to be without any merit and the same is hereby dismissed. However, delay of 50 days in filing the appeal is hereby condoned.

(Mahesh Grover)
Judge

19.09.2017 **(Raj Shekhar Attri)**
rekha **Judge**
Whether speaking/reasoned Yes/No
Whether reportable Yes/No

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