

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.427 of 2017 (O&M)

Date of Decision: March 29, 2017

State of Haryana and anotherAppellants

versus

Suman Rani and anotherRespondents

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

Present: Mr.Deepak Balyan, Additional AG, Haryana, for the appellants.

-. -

Surya Kant, J. (Oral)

This letters patent appeal has been preferred by the State of Haryana through Department of Agriculture challenging the order dated 22.09.2016 whereby learned Single Judge has directed that the respondent be offered appointment on the post of Agriculture Development Officer as three posts out of 115 posts of General Category which were advertised, are lying unfilled and she is amongst the immediate next three candidates in order of merit.

[2] There is no dispute on facts. Haryana Staff Selection Commission invited applications for recruitment of 267 posts of Agriculture Development Officers, out of which 115 were meant for General Category. The result was declared on 16.07.2012. Besides the main selection list containing names of 115 candidates from General Category, there was a waiting list of 11 candidates and the name of the respondent was at Sr.No.6 in the waiting list. Subsequently, 8 candidates from the main selection list of 115 candidates did not join due to cancellation of their candidature and/or they refused to accept the offer of appointment. The department issued

appointment letters to 3 more candidates who are next in order of merit in the waiting list and thus they were appointed. In this manner, the respondent alongwith two more candidates were left out in the waiting list and they were not offered appointment despite the posts were lying unfilled, on the ground that meanwhile selection list had expired on 22.07.2013.

[3] In this factual backdrop, the question which fell for consideration of the learned Single Judge was whether the respondent could be denied appointment on the ground that one year's validity period of selection list had expired?.

[4] In this regard, learned Single Judge has returned the following finding of fact qua 3 candidates who are in the selection list but have not joined the posts:-

“..... Shashi Kant was issued offer of appointment on 13.02.2013 and granted 15 days time to join. He apparently submitted a request for change of station from Hathin to Palwal. Such request was declined by the respondent/ department vide communication dated 19.03.2013. Shashi Kant chose not to join on the post. For inexplicable reasons, the respondent sat over the matter and cancelled the offer of appointment made to Shashi Kant vide memo dated 13.02.2014.

In the case of Rahul, the offer of appointment was issued vide letter dated 13.02.2013. 15 days time was again granted for him to join the post. On his request, an extension in joining, time was granted upto 28.06.2013. Rahul having not joined on the post in spite of such extension having been granted, his offer for appointment was cancelled on 30.07.2013.

Insofar as Rakesh Kumar is concerned, learned State Counsel would apprise the Court that he was not even issued any appointment letter as he had not submitted the

character certificate and medical fitness certificate in spite of being called upon to do so. Ultimately, a letter dated 29.07.2013 was received from the Deputy Director of Agriculture, Haryana, Karnal informing respondent No.2 that Rakesh Kumar is not interested in joining on the post as he is already working on the post of Development Officer in a Bank.....:

[5] Learned Single Judge has thus held and rightly so that the Department, for the reasons best known to it, failed to take timely action for the cancellation of offer of appointment to the above-named candidates within a reasonable time and meanwhile, the selection list was allowed to lapse. It was a case where the respondent was denied appointment due to an artificial disqualification solely attributable to the appellants themselves. Had the authorities acted diligently and in a fair & just manner, they would have determined well before expiry of one year of the selection list that the above-named three candidates were either not willing and/or were not entitled to appointment. Such a timely decision would have paved way for the appointment of the respondent alongwith two other candidates. In these circumstances, learned Single Judge has rightly held that the respondent has been denied appointment wholly for whimsical and unjustified reasons. We thus do not find any merit in this appeal which is accordingly dismissed.

[6] We are constrained to observe that though the office of Advocate General, Haryana as well as Legal Remembrancer, Haryana, both had opined in this case that the matter is not fit to file appeal yet the Agriculture Department, being totally adamant, got this appeal filed by securing instructions from the Chief Secretary, Haryana. We will say nothing more except to observe that atleast in legal matters, the opinion of

especially to avoid the burdening of this Court with unwanted litigation.

[7] Since we have dismissed the appeal on merits, it is not necessary to pass any separate order on the application for condonation of delay of 135 days in fling the appeal.

[SURYA KANT]
JUDGE

March 29, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

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