

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.453 of 2017 (O&M)

Date of Decision: March 24, 2017

Shiv Dutt and othersAppellants

versus

State of Haryana and anotherRespondents

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

Present: Mr.Kanwaljit Singh, Senior Advocate with
Mr.Parunjeet Singh, Advocate, for the appellants.

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Surya Kant, J. (Oral)

This letters patent appeal is directed against the order dated 08.02.2017 vide which learned Single Judge has dismissed the appellants' writ petition wherein they claimed a direction for their appointment to the posts of Lecturers/Masters in accordance with the erstwhile Punjab Government Instructions dated 08.07.1965.

[2] The appellants are working as Clerks/Ministerial cadre in the Education Department, Haryana. They possess the academic qualification for appointment to the posts of Masters/Teachers/Lecturers. Relying upon the Government Instructions dated 08.07.1965, they earlier approached this Court for issuance of a direction to consider their claim for 'adjustment' against the posts of teaching staff. Their writ petition was dismissed. They filed LPA Nos.847 and 850 of 2013 which were disposed of by a Division Bench to which one of us (Surya Kant, J.) was a member, observing as follows:-

“....Having heard learned counsel for the parties, it appears that the view taken by the learned Single Judge that once the

method of recruitment is governed by the statutory rules, the Instructions have no applicability, is a correct statement of law and calls for no interference. If the department, however, has been invoking powers under Rule 9 (1) (ii) and has made appointments by way of transfer of the officials already in service of the State Government, we grant liberty to the appellant to make a representation alongwith such instances and submit his claim. The representation/claim of the appellant may be considered keeping in view the fact that the Instructions dated 8.7.1965 were still in force when he is said to have become eligible and applied. A speaking order on the representation of the appellant shall be passed by the Competent Authority within a period of six months from the date of its receipt....”

[3] It appears that pursuant to the liberty granted by this Court, the appellants represented for re-consideration of their claim but the same was turned down. They again approached this Court and the learned Single Judge vide order under appeal has declined to interfere with.

[4] We have heard learned counsel for the appellants who contends that the rule in question came into force in the year 1998 whereas the vacancies in teaching cadre has arisen prior thereto which need to be filled up as per the old Instructions of 1965. We, however, do not find any substance in the contention. There is no quota prescribed under the Instructions dated 08.07.1965 on the basis of which it can be claimed that vacancies of appellant' slot remained unfilled. The Instructions dated 08.07.1965 were only enabling provision and if the Competent Authority at that time did not deem it necessary to make appointments thereunder, it cannot be said that the appellants were deprived of any vested right.

[5] Since the appointments to the teaching posts are governed under the statutory rules, it is imperative upon the authorities to adhere to

those rules only. The Instructions in the light of the provisions in the rules stand superseded by implication.

[6] No case to interfere with the order under appeal is made out.

[7] Dismissed.

[SURYA KANT]
JUDGE

March 24, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

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