

LPA No. 1110 of 2018 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**LPA No. 1110 of 2018 (O&M)
Date of decision: 21.9.2018**

Sewa Devi S.D. College , Tarn Taran

... Appellant

Versus

The Presiding Officer, Education Tribunal, Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. R.K. Arora, Advocate
for the appellant.

KRISHNA MURARI, CHIEF JUSTICE (Oral)

CM-2984-LPA-2018

This is an application seeking condonation of delay of 52 days in re-filing the accompanying appeal.

For the reasons set out in the application, which is duly supported by an affidavit, the same is allowed. Consequently, the delay of 52 days in re-filing the accompanying appeal is condoned.

Application stands disposed of.

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This intra-court appeal, under Clause X of the Letters Patent, is directed against the judgment and order of learned Single Judge, dated 23.1.2018, dismissing the writ petition filed by the appellant-institution, challenging an order of the Education Tribunal holding respondent No.2 to

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be entitled for payment of UGC pay scale from the date of her joining.

Facts relevant for adjudication of the controversy, in nutshell, can be capitalized as under.

The appellant-institution issued an advertisement inviting applications for making appointment to the post of Lecturer in Punjabi. After following the procedure prescribed for such appointment, one Sh. Tilak Raj was selected and respondent No.2 herein was placed at Sr. No.1 in the waiting list. The selected candidate (Sh. Tilak Raj), who was already serving in Guru Nanak Dev College, Karnal, submitted his joining report on 25.9.2002. However, he could not submit the relieving certificate from his previous College and as such, he was not allowed to join. Thereafter, he never came to the College and respondent No.2 herein, who was placed at Sr. No. 1 in the waiting list, was allowed to join. Vide letter dated 9.8.2003, the appellant-institution requested the University to grant necessary approval, which was refused and the institution was directed to fill up the post by issuing fresh advertisement. The said order was challenged by respondent No.2 by filing CWP No. 17833 of 2003. However, during the pendency of the said writ petition, since Education Tribunal was constituted, she was relegated to the said Tribunal. In view of the interim order passed by this Court, she continued to function on the said post. The Education Tribunal, vide order dated 12.12.2013, allowed her petition and set aside the order dated 12.6.2003 passed by the University, directing the college to allow her to continue on the post, as duly selected candidate by the Selection Committee. A further direction was issued to the University to accord approval to the appellant.

Aggrieved, the appellant-institution filed a writ petition. This

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Court issued notice of motion only on the limited question of grant of pay scale in the light of an agreement between the College and respondent No.2 herein. It is to be taken note of that when the selected candidate (Sh. Tilak Raj) did not join, respondent No.2 was asked to function on the said post and she had agreed to discharge the duties on payment of monthly remuneration of ₹4,000/-, for the said academic session.

The learned Single Judge, finding that once respondent No.2 was given appointment, being at Sr. No.1 in the waiting list prepared after interview, held that she would be entitled to UGC pay scale from the date she joined on the post. The agreement, if any, between the appellant-institution and respondent No.2 to work on monthly remuneration ₹4,000/- was only for that academic session, and was entered into by the parties in the circumstances when the selected candidate was awaiting permission to join for want of relieving certificate from the institution where he was working. Once the selected candidate did not turn up to join, respondent No.2 was appointed, being at Sr. No.1 in the waiting list, and thus, her selection would be a regular selection and she would be entitled for payment of salary in the pay scale as is admissible to the said post. The agreement being relied upon by the appellant-institution to contend that she is not entitled to UGC pay scale will have no consequence. More so, it was valid only for a particular academic session.

In view of the above facts, we are also of the considered opinion that once the appointment of respondent No.2 in the appellant-institution relates back to the waiting list, which was prepared after following due procedure, her appointment would be a regular appointment and she would be entitled to payment of salary, which is admissible to the

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said post. Neither the Education Tribunal nor the learned Single Judge have committed any illegality in taking the said view.

In view of the aforesaid facts and circumstances, since there is no infirmity in the impugned judgment of the learned Single Judge, the same does not require any interference. The appeal being devoid of merit accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

September 21, 2018
AK Sharma

Whether speaking / reasoned:	YES
Whether Reportable:	NO