

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

LPA-473-2018 (O&M)
Date of decision:- 26.11.2018

Manjit Singh Saini and others

...Appellants

Versus

State of Punjab and others

...Respondents

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

Present:- Mr. S.P. Garg, Advocate,
for the appellants.

Mr. Shireesh Gupta, Deputy Advocate General, Punjab.

Mr. Gurminder Singh, Senior Advocate,
with Mr. Jatinder Singh Gill, Advocate,
for the applicants in CMS-3950 & 3951-LPA-2018.

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KRISHNA MURARI, C.J. (ORAL)

Reply to application for impleading applicants as respondents in the appeal filed on behalf of the appellants in Court today is taken on record.

This intra court appeal under clause X of the Letters Patent is directed against the order dated 20.03.2018 passed by learned Single Judge at the interim stage modifying the earlier interim order dated 29.09.2017.

2. Facts in brief are that six petitioners approached this Court by filing writ petition challenging the DPC being held for selection and appointment on the post of Principal. Initially, on 29.09.2017, learned Single Judge passed the following order:-

*"In the meanwhile, promotion orders in
pursuance to the DPC held on 18.09.2017
shall be kept in abeyance."*

3. Thereafter, certain affected persons, who have made an application for being impleaded in the present appeal as well, made an application before the learned Single Judge in the pending proceedings for being impleaded as a party and to vacate the interim order. However, before any order could be passed on the application, the State also filed an affidavit and when the matter was taken up on 20.03.2018, based on the information furnished by learned State counsel, learned Single Judge passed the following order:-

"Learned State counsel informs that petitioner Nos. 2, 3 and 4 have retired during the pendency of present petition whereas, the learned counsel for the applicant(s) in CM-2001-CWP-2018 and CM-269-CWP-2018 states that the petitioner No. 6 has issued a power of attorney in his favour and that she wants to be transposed as respondent.

In the circumstances, the order dated 29.09.2017 is modified to the extent the State is at liberty to carry out the promotion in pursuance of DPC held on 18.09.2017 after keeping two posts vacant for the post of Principals.

Post again on 26.07.2018, the date already fixed in the main case."

4. Aggrieved by the said order, the appellants filed the present appeal. Division Bench while issuing notice vide order dated 02.04.2018 stayed the effect and operation of the order dated 20.03.2018. It is an admitted case between the parties and there is no doubt about it that on the date the order dated 20.03.2018 was passed, three out of six petitioners had retired and one of them wanted to be transposed as respondent and there were only two eligible persons left among the petitioners who could have been promoted and, thus, the learned Single Judge kept two posts reserved for them.

5. In view of the aforesaid fact, we do not see how the appellants were aggrieved to have filed the present appeal inasmuch as the interest of two serving appellants who could have been considered for promotion was amply safeguarded. As of now, it is an admitted position before us that all the five appellants have retired and in case on decision of the writ petition it is found that ultimately they are entitled to be promoted, they can only be compensated notionally. Thus, we see no reason for this appeal to be continued on board any further. As a matter of fact, it has lost its efficacy and is rendered infructuous.

6. Accordingly, the appeal stands dismissed.

7. Learned Single Judge is, however, requested to consider the impleadment application made by the applicants which is pending before him and thereafter proceed to consider and decide the writ petition on its own merits as expeditiously as possible.

8. Any action taken by the State-respondents in pursuance to the interim order dated 02.04.2018 shall stand nullified and status-quo ante shall be restored.

9. In the wake of the above, no orders are required to be passed in the miscellaneous applications and the same accordingly stand disposed of.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

26.11.2018

Anodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No