

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

LPA No. 2239 of 2016 (O&M)

Date of decision: 10.7.2019

The State of Punjab and others

.. Appellants

VS

Balkar Singh

.. Respondent

**Coram: Hon'ble Mr. Justice Rajiv Sharma
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present Mr. Aayush Sarna, Assistant Advocate General, Punjab.
Mr. G. S. Bal, Senior Advocate with
Ms. Gursimran Kaur, Advocate, for the respondent.

Rajiv Sharma, J.

CM No. 4623-LPA/2016

The present application has been filed seeking condonation of delay of 561 days delay in filing the appeal.

In view of the grounds taken in the application, which is supported by an affidavit, delay of 561 days is condoned.

Civil Misc. stands disposed of.

LPA No. 2239/2016

The present Letters Patent Appeal is instituted against the judgment rendered by learned Single Judge in CWP No. 10820 of 2014 dated 18.3.2015 and judgment dated 4.3.2016 passed in R. A. No. 306 of 2015.

The brief facts necessary for adjudication of the present Letters Patent Appeal are that the respondent joined as Constable on 4.2.1993 in the Punjab Police. The eligible constable has to undergo Lower School Course at the Punjab Police Academy, Phillaur, for promotion as a Head Constable. A list of 239 constables was prepared for B-I Test for deputing them to undergo Lower School Course. However, fact of the matter is that the vacancies earmarked for constable in the session were 240, but only 239 constables were deputed to undergo the B-I test. The respondent was also included in the list at Sr. No. 238. He reported for the training at the Punjab Police Academy, Phillaur, on 14.4.2011.

The appellants revised the B-I list and issued a fresh list of 239 constables. The respondent was placed at Sr. No. 4 in the waiting list. He filed CWP No. 7227 of 2011. The order of recalling was stayed. The writ petition was disposed of having become infructuous with the following observations:-

“The petitioners were deputed to undergo Lower School Course which commenced from 15.04.2011. While the petitioners were undergoing the said course the impugned order was passed recalling them from the said course. The aggrieved petitioners have approached this Court. While issuing notice to the respondents, this Court vide order dated 27.04.2011 directed the respondents that petitioners shall be allowed to complete the Lower School Course.

Learned counsel for the petitioners states that pursuant to the aforesaid order dated 27.04.2011, the petitioners have already completed the said course.

That being so, the writ petition is disposed of as infructuous with a clarification that the petitioners shall be

treated to have completed the Lower School Course for all intents and purposes though without prejudice to the rights of their seniors , if any.

Dasti.”

The respondent belongs to the Backward Class category. One Satnam Singh, No. 309/R, who also belongs to Backward Class category, for whom one seat was kept reserved in the next course, did not choose to undergo the Lower School Course in the batch of 2011. The respondent has obtained merit position no. 46 out of 239 constables. His name was brought in C-I list. He was promoted to the post of Head Constable. He received show cause notice dated 24.5.2014 stating therein that he was wrongly deputed to undergo Lower School Course in the year 2011.

The appellants in their reply have admitted that 239 seats were allotted for the Lower School Course for the year 2011. The basic proficiency test was held on 13.3.2011. The name of the respondent was mentioned at Sr. No. 238. The list was revised. In the revised merit list, the name of the petitioner was placed at Sr. No. 4 in the waiting list. He was allowed to complete the course.

The appellants have admitted that Satnam Singh belongs to Backward Class category. In the revised merit list, Satnam Singh was at Sr. No. 64. The respondent was shown at Sr. No. 4 in the waiting list. Since the name of Satnam Singh was excluded from the selection list, the respondent's name, who was at Sr. No. 1 in the Backward Class category, was required to be sent for Lower School Course. The Director General of Police had already made up his mind while issuing letter dated 4.3.2014. The purpose of issuing show cause notice to the respondent to appear before the authority was merely a formality. There was violation of principles of

natural justice. Moreover, the learned Single Judge has rightly come to the conclusion that the respondent was required to be placed at the place of Satnam Singh, who also belongs to Backward Class category, who did not choose to undergo the Lower School Course.

There is no illegality in the judgment rendered by the learned Single Judge. There is no merit in the appeal. Accordingly, the same is dismissed.

(Rajiv Sharma)
Judge

10.7.2019
vs

(Harinder Singh Sidhu)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No