

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 204

Date of Decision: *February 17, 2020*

1.

LPA No.532 of 2017 (O & M)

Gurinder Singh

..... APPELLANT

VERSUS

Union of India & others

..... RESPONDENT(S)

...

2.

LPA No.458 of 2017 (O & M)

Union of India & others

..... APPELLANT

VERSUS

Gurinder Singh

..... RESPONDENT(S)

...

CORAM: **HON'BLE MR. JUSTICE JASWANT SINGH**
 HON'BLE MR. JUSTICE SANT PARKASH

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PRESENT: - Mr. Puneet Sharma, Advocate, for the appellant in LPA No.532 of 2017 and for respondent in LPA No.458 of 2017.

Ms. Anita Balyan, Advocate, for the respondents in LPA No.532 of 2017 and for the appellants in LPA No.458 of 2017.

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Sant Parkash, J

CM No.1077-LPA of 2017 In LPA No.532 of 2017 &

CM No.940-LPA of 2017 In LPA No.458 of 2017

For reasons mentioned in the applications, delay in filing the appeals is condoned.

Applications are allowed.

CM No.1076-LPA of 2017 In LPA No.532 of 2017 &

CM No.942-LPA of 2017 In LPA No.458 of 2017

Applications are allowed as prayed for.

Main Appeals

This judgment shall decide the aforementioned two LPAs as they arise out of a common judgment, and involve same questions of law & facts.

The challenge in LPA No.532 of 2017 is to judgment dated 09.12.2016 passed by the learned Single Judge in CWP No.2140 of 2016, whereby the main relief of the appellant has been declined and the respondents have been held liable to pay cost of ₹ 1 lac for inconvenience caused to the appellant.

LPA No.458 of 2017 has been preferred by the appellants – Union of India, for setting aside the aforesaid judgment to a limited extent i.e. with regard to the imposition of the cost of ₹ 1 lac, to be paid to respondent – Gurinder Singh.

For reference to facts, file of LPA No.532 of 2017 is taken up.

Succinctly put, appellant – Gurinder Singh, applied for recruitment to the post of Constable, pursuant to advertisement dated 15.12.2012 for Recruitment of Constables (GD) in CAPFs and Rifleman

(GD) in Assam Rifles, 2013. After considering the result of written examination, held on 12.05.2013 and medical examination held on 08.01.2014, appointment letter dated 13.09.2014 was issued to the appellant and he was deputed to undergo the training. He was asked to report on 11.10.2014 in the office of respondent No.3. While he was undergoing training, his selection was cancelled vide office order dated 30.11.2015 with reference to the amended result.

The appellant challenged the validity of aforesaid order dated 30.11.2015 on the ground that no prior notice was given to him as required under Rule 16 of Central Reserve Police Force Rules, 1955 (for short, '1955 Rules') which provides one month notice to be given before order of termination.

Vide the impugned judgment, learned Single Judge held that the appellant was unnecessarily allowed to undergo training for more than one year and an assurance had been given to him about selection and appointment to the post of Constable. Further, the respondents have been held to pay cost of ₹ 1 lac for the inconvenience caused to the appellant, however his main relief claiming selection to the post of Constable, was declined, as it was found that appellant was lower in merit, compared to other candidates.

It has been contended by learned counsel for the appellant that the learned Single Judge, though, accepted procedural lapse on the part of the respondents but failed to grant the requested relief and imposed a cost of ₹ 1 lac on the respondents which is inconsequential in view of the huge irreparable loss suffered by him. It has been further contended that before terminating the services of the appellant, no notice as contemplated under Rule 16 of 1955 Rules was served upon him. Further elaborating his

arguments, he submitted that it was an inadvertent mistake only of mentioning of the Code of the State and the impugned order has resulted into miscarriage of justice. Three valuable years of the appellant have been wasted.

It is further contended that the appellant had qualified all the tests and had even undergone the requisite training and was at the final stage of induction, therefore it was not required for the authorities to oust him from the service merely on the ground of wrong mentioning of the Code of the State.

Per contra, learned counsel for the respondents – Union of India, has contended that the appellant belongs to the State of Haryana but at the time of submission of application form, he mentioned the State Code as 12 whereas the Code relating to the State of Haryana is 13 and Code No.12 relates to Gujarat. The error committed by the appellant came to the notice of the authorities and his selection was rightly cancelled as candidates belonging to State of Haryana had secured more marks than the appellant.

We have heard learned counsel for the parties and perused the record.

Admittedly, the appellant belongs to the State of Haryana and was required to fill the code as 12, in the application form, being domicile of Haryana, but he filled the code as 13 which stands for State of Gujarat. The learned Single Judge rightly observed that even though if it is typographical error, the respondents could have rectified with reference to application wherein the appellant has stated that he is from Haryana. Lateron, while the appellant was on training, the defect in his application form had been taken note of and his selection was cancelled. No doubt, para

10 of the advertisement, talks of shifting/diverting the candidates from surplus states to deficit states, but the appellant was not entitled for State of Haryana on that count also. The reason being, for the State of Haryana, the cut off marks in OBC category candidates is from 83 to 88 for different disciplines like BSF, CRPF, ITBP and Assam Rifles, whereas the appellant secured 49 marks and therefore, his claim of adjustment in State of Haryana is totally misconceived. As regards the State of Gujarat, of which he had furnished the Code as No.12, he was not domiciled for that State which was the condition precedent for being considered for that State. In this regard also, learned Single Judge has rightly observed that even if the appellant is to be accommodated in Gujarat State having regard to the marks obtained by him, still the candidates who are from the State of Haryana and have secured more marks than him, they would be denied the benefit of selection.

As regards prior notice as envisaged under Rule 16 of 1955 Rules, it would not have made any difference because the appellant himself was not eligible for either of the States in view of the discussion above. The mandate of Rule 16 of 1955 Rules is to be complied only if the selection has been made after following due process and the candidate fulfils all the conditions of appointment.

As far as the imposition of cost of ₹ 1 lac is concerned, we are of the view that the respondents are also equally responsible in not detecting the error at the earliest. At the time of scrutiny of documents at the initial stage, they could have noticed the factum of wrong mentioning of the Code which was a serious lapse. The appellant was selected by the respondents and was sent for training on 11.10.2014 which he was about to complete on 29.01.2016. In this way, the appellant was allowed to undergo training for more than one year. Therefore, we are of the considered view

that on account of the mental agony faced by the appellant, learned Single Judge has rightly held the respondents liable to pay cost of ₹ 1 lac for the inconvenience caused to him.

In the light of what has been discussed above, we do not find any illegality or infirmity in the impugned judgment which is hereby affirmed. Consequently, both the appeals stand dismissed.

As the appeals themselves have been dismissed, the applications viz. CM No.1078-LPA of 2017 in LPA No. 532 of 2017 and CM No.941-LPA of 2017 in LPA No.458 of 2017 are of no relevance and stand dismissed.

(Jaswant Singh)
Judge

(Sant Parkash)
Judge

February 17, 2020
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No