

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

212

LPA-1939 of 2016 (O&M)
Date of decision: 02.08.2022

Ajay Kumar and another

...Appellants

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR.JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MR.JUSTICE H.S. MADAAN**

Present: Mr. H.C. Arora, Advocate for the appellants.

Mr. Pankaj Gupta, Addl. AG, Punjab
for respondents No.1 and 2.

M.S. RAMACHANDRA RAO, J. (Oral)

Heard counsel for the appellants and counsel for the State-respondents No.1 & 2. The other respondents are not necessary party in the present case.

This appeal has been preferred against the judgment dt. 08.07.2016 of the learned Single Judge in CWP-1219-2014, and the further order dt. 05.09.2016 passed by learned Single Judge in RA-CW-244-2016.

The case of the appellants is that they had sought appointment as Hindi teachers which posts were advertised by the Education Department of the Government of Punjab on 07.05.2011 along with similar teacher posts in other subjects. Certain candidates were

shown in a select list notified on the website of the said department along with a wait list upto 10% of the select list.

The appellants' names did not figure either in the select list or in the wait list.

Alleging that they should also be issued appointment letters since a large number of posts were lying vacant due to non-joining of selected candidates, and that the respondents having given benefit to some people in the wait list by issuing appointment letters and they cannot ignore the claim of persons like the appellants, this writ petition bearing No.CWP-1219-2014 was filed by the appellants and others.

The same came to be decided by learned Single Judge along with three other writ petitions bearing No.CWP-23055-2013, 10023 and 13765-2014.

In the impugned order passed by learned Single Judge in these writ petitions on 08.07.2016, the learned Single Judge went by the facts as they were narrated in CWP-23055-2013, and since the petitioners in that writ petition were already in the wait list for the subjects of Science and Hindi teachers, relying on the decision of Supreme Court in **Shankarsan Dash Vs. Union of India**, 1991 (3) SCC 47, the writ petitions were allowed, and directions were given to the respondents to offer appointment letters on the strength of being in the wait list for the advertisement in question for the subject of Hindi and Science within three months.

However, in the common order passed by learned Single

Judge, the learned learned Single Judge did not deal with the claim of the appellants as regards issuance of appointment letters to them even though they were not in the wait list.

The appellants then filed RA-CW-244-2016 which was dismissed with costs on 05.09.2016, stating that no relief can be granted to the appellants since the earlier order was passed on the basis of the order in CWP-23055-2013, which itself was disposed of on the basis of decision of Supreme Court in **Shankarsan Dash** case (supra), and the appellants had also referred to CWP-23055-2013 which pertain to wait list category even though the appellants were not in the wait list.

In this appeal, notice of motion was issued for 13.02.2017 on 29.09.2016, and deposit of costs was stayed by a Division Bench of this Court.

Counsel for the appellants contended that the appellants are meritorious candidates, and if the posts in question had not been consumed, they should also be offered appointments since they are persons who are next in merit, and placed reliance on the decision of Division Bench of this Court in **State of Haryana and others Vs. Gajraj Singh** 2011(4) SCT 207.

After hearing counsel for the appellants and counsel for the State, we are of the opinion that the claim of the appellants who were not in the wait list had not been gone into by learned Single Judge while passing the common order in CWP-1219-2014 along with other three writ petitions i.e. CWP-23055-2013, 10023 and 13765-2014; and in the

absence of any discussion or finding on the claim of the appellants in the said order, it would be desirable to send the matter back to learned Single Judge for consideration of the claim of the appellants in CWP-1219-2014.

Therefore, without expressing any opinion on the merits of the contentions of the appellants, the present appeal is allowed; the order dt. 08.07.2016 in CWP-1219-2014 is set aside, and the said writ petition is restored to the file of this Court, and is directed to be heard and disposed of afresh in accordance with law. The award of costs in the review application bearing No.RA-CW-244-2016 vide order dt. 05.09.2016 is set aside.

(M.S. RAMACHANDRA RAO)
JUDGE

02.08.2022
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(H.S. MADAN)
JUDGE

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