

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

213

LPA-216-2018 (O&M)

Dr. Wazir Singh

.....Appellant

Versus

State of Haryana and others

.....Respondents

(2)

LPA-277-2018 (O&M)

Director, Haryana Institute of Rural Development Nilokheri (HIRD), Karnal

.....Appellant

Versus

Dr. Balkar Singh and others

.....Respondents

(3)

LPA-1852-2018 (O&M)

Dr. Balkar Singh

.....Appellant

Versus

State of Haryana and others

.....Respondents

Decided on : 20.05.2022

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present: Mr. S.S. Gangolia, Advocate for
Mr. Gagandeep Rana, Advocate for the appellant
in LPA 216 of 2018, for respondent No.4 in LPA No.277 of
2018 and for respondent No.5 in LPA No.1852 of 2018.

Mr. Lokesh Sinhal, Advocate for the appellant-Institute
in LPA No.277 of 2018 and for respondent No.3
in LPA Nos.216 & 1852 of 2018.

Mr. Jasbir Mor, Advocate for the appellant
in LPA No.1852 of 2018 and for respondent No.1
in LPA No.277 of 2018 and respondent No.8
in LPA No.216 of 2018.

Ms. Palika Monga, DAG, Haryana.

G.S. Sandhawalia, J. (Oral)

CM-534-LPA-2018 in LPA-216-2018

Application for condonation of delay of 25 days in filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit.

CM stands disposed of.

CM-701-LPA-2018 in LPA-277-2018

Application for condonation of delay of 41 days in filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit.

CM stands disposed of.

CM-4781 & 4783-LPA-2018 in LPA-1852-2018

Application for condonation of delay of 352 days in refiling the appeal and 50 days in filing the appeal, are allowed, in view of the averments made in the applications, duly supported by affidavit.

CMs stand disposed of.

Main cases

The present judgment shall dispose of three appeals i.e. **LPA Nos.216, 277 & 1852 of 2018**, which are directed against the order of the learned Single Judge dated 24.10.2017 passed in **CWP No.15287 of 2016 'Dr. Balkar Singh Vs. State of Haryana and others'** and the order dated 24.11.2017 passed in Review Application No.505 of 2017.

Appellant-Dr. Wazir Singh (in LPA No.216 of 2018)

was the selected candidate, whereas Dr. Balkar Singh, the appellant (in LPA No.277 of 2018) was the successful writ petitioner, who has not been granted the appointment. The third appeal has been filed by the by the Institute itself, whose members of the Committee had conducted the selection process and were saddled with costs of Rs.20,000/- to be paid to the writ petitioner and Rs.25,000/- to paid to the Haryana State Legal Services Authority. The learned Single Judge has set aside the selection process for the posts of Assistant Professor (Rural Development) in the appellant-Institute by noticing that as per the information supplied by the State Public Information Officer, no marks had been awarded for interview to the writ petitioner which was held on 18.02.2013, in which he had taken part.

Resultantly, a finding was recorded that entire process of selection was at the whims and fancies of the selection committee without any criteria adopted. It was noticed that out of four posts having been advertised, three posts had fallen vacant, which were again re-advertised and three persons were appointed. Thereafter, another advertisement was issued on 11.01.2015, against which other four persons were appointed. In such circumstances, no directions were issued in favour of the writ petitioner to be appointed by way of selection process on the ground that the process itself was tainted and no criteria had been prescribed for the interview. Certain other directions were issued to re-advertise the posts with proper criteria and permit the writ petitioner to apply even if he was overage.

During the course of arguments, it transpires that Dr. Balkar Singh is now working as Assistant Professor in Indira Gandhi National Open University, New Delhi. A period of 5 years has expired, since the order was passed by the learned Single Judge.

In the absence of any such interim order passed in his favour once he has chosen to seek employment elsewhere, the appeal filed by Dr. Balkar Singh is not liable to be decided in his favour, in view of the facts recorded above. Nothing has been shown to dispel the finding recorded that how four persons were appointed, even though three posts were advertised, but four vacancies were filled up, which was not permissible, as it was beyond the posts advertised.

It is not disputed that even the writ petitioner Dr. Balkar Singh is also now appointed elsewhere and, therefore, it is only for his personal satisfaction that the wrong which had been caused to him, he is pursuing the litigation.

Counsel for the appellant-Institute has submitted that the Selection Committee as such was consisting of persons, who were from outside and they have been saddled with liability and, therefore, submitted that cost element of Rs.45,000/- is liable to be modified.

Keeping in view the cumulative discussion, we are of the considered opinion that since both the appointee and the writ petitioner are now employed elsewhere, no further adjudication is required on the same. The reasoning given by the learned Single Judge cannot be held to be unjustified in any manner. However, the

writ petitioner Dr. Balkar Singh as such is entitled for costs of litigation and the order is modified to the extent that the Institute would pay the amount of Rs.45,000/- to the writ petitioner Dr. Balkar Singh by way of demand draft, rather than recover it from the member of the Selection Committee as it was also the Institute, who had filled up one of the posts without even advertising it and, therefore, it cannot be said that the Institute was never at fault.

In such circumstances, the appeals are disposed of. The orders of the learned Single Judge dated 24.10.2017 and 24.11.2017 are upheld and modified to the extent that Rs.45,000/- is to be paid by the appellant-Institute to the writ petitioner Dr. Balkar Singh by way of demand draft.

(G.S. SANDHAWALIA)
JUDGE

May 20, 2022
Naveen

(VIKAS SURI)
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes/No
Yes/No