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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-28-2021 (O&M)

Date of decision: 15.09.2023

State of Haryana and others

....Appellants.

Versus

Anil and others

...Respondents.

CORAM: HON'BLE MS. JUSTICE DEEPAK SIBAL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

.....

Present: Mr. Dushyant Saharan, AAG, Haryana.

Mr. Tej Pal Dhull, Advocate for the respondents.

DEEPAK SIBAL, J.

The present Intra Court Appeal has been preferred by the State of Haryana to challenge therein the judgment dated 20.01.2020 passed by a learned Single Judge of this Court whereby CWP-24424-2016 filed by the respondents, was allowed resulting in the issuance of a direction to the State to re-fix the respondents' pay as also to grant them arrears with effect from 11.01.2008.

2. The facts, in brief, leading to the filing of the instant appeal are that through an advertisement dated 22.07.2007, the State initiated the process of filling up 910 posts of drivers. After the selection process was over, some unselected candidates instituted CWP-728-2009, titled as Sanjay and others Vs. State of Haryana and others and CWP-3772-2009,

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titled as Jitender Kumar and others Vs. State of Haryana and others. Through the afore petitions selection of drivers in the Sonapat Depot was challenged. These petitions were allowed by this Court on 11.03.2011. Though such judgment, this Court set aside the selection of drivers pertaining to the Sonapat Depot and directed the State to hold a fresh selection. It was further directed that the candidates, who would be selected in pursuance to the fresh selection would be offered appointments with consequential benefits which shall relate back to the original date of interview. However, they would not be entitled to any pecuniary benefits.

3. In terms of the afore judgment of this Court the State of Haryana underwent a fresh selection process and the results thereof were published through a fresh select list. The respondents, who made it to the fresh select list were then appointed. On such appointment, though the respondents were granted seniority with effect from the earlier/ original date of interview i.e. 11.01.2008 but no arrears or even benefit of pay fixation from 11.01.2008 was granted. It is in these circumstances that the respondents knocked the doors of this Court seeking fixation of their pay from the deemed date of their appointment. A learned Single Judge of this Court allowed the writ petition and issued directions to the State to re-fix the respondents' pay from the deemed date of their appointment as also to grant them arrears from that date. Such judgment has been assailed by the State through the instant intra Court appeal.

4. Learned counsel for the parties have been heard and with their assistance the records of the case have also been perused.

5. In the year 2008, the State of Haryana conducted selections for

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appointment of drivers for the entire State. Through Sanjay's case (supra) only the selection pertaining to the Sonapat Depot was challenged before this Court. Such challenge resulted in the setting aside of selections of drivers pertaining to the Sonapat Depot. In Sanjay's case (supra) this Court further directed the State to conduct fresh selections with a further stipulation that the appointment of the candidates to be appointed in pursuance to such fresh selections would relate back to the original date of interview and that they would be also entitled to all consequential benefits except any pecuniary benefits.

6. In the fresh selection conducted in terms of the directions given by this Court in Sanjay's case (supra), all the respondents made it to the fresh select list and were actually appointed on 20.12.2011. On such appointment, as per the directions given by this Court in Sanjay's case (supra), they were given seniority w.e.f. the original date of their interview i.e. 11.01.2008. However, benefits with regard to pay and pay fixation were granted only with effect from the date of their actual appointment.

7. Once the respondents have been granted seniority w.e.f. 11.01.2008, they would be deemed to be in service from that date and therefore, there is no reason to deny them fixation of pay from that date. Of course, in terms of the directions given by this Court in Sanjay's case (supra) and principle of 'no work no pay' as also the statement made before this Court by Mr. Dhull, the respondents would not be entitled to any arrears from the deemed date till the actual date of their appointment. Rest of the arrears, if any, which they may be held entitled to be released to them expeditiously.

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- 8. The impugned judgment of the learned Single Judge is modified in the above terms.
- 9. Disposed of.
- 10. No costs.

(DEEPAK SIBAL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

15.09.2023
Komal

Whether speaking/reasoned? : Yes/ No
Whether reportable? : Yes/ No