

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-1194-2023 (O&M)
Date of decision:- 28.08.2023

Raj Singh and others
...Appellant(s)
Versus
State of Haryana and others
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Akshay Bhan, Senior Advocate,
with Mr. Aman Bansal, Advocate,
for the appellants.

Mr. Deepak Balyan, Additional Advocate General, Haryana.
* * * *

RAVI SHANKER JHA, C.J. (ORAL)

CM-3067-LPA-2023

For the reasons mentioned therein, the delay of 89 days in filing the appeal is condoned.

The application stands disposed of.

LPA-1194-2023

This appeal has been filed by the appellants being aggrieved by an order dated 24.04.2023, whereby the learned Single Judge while taking into account the fact that some of the petitioners had already been promoted to the post of Deputy Superintendent in their channel of promotion has vacated the interim order that had been granted on 03.10.2013.

Learned senior counsel, appearing for the appellants, when confronted with a decision of the Supreme Court in *Midnapore Peoples Co-op. Bank Ltd. and others Vs Chunilal Nanda and others*, 2006(5) SCC 399 regarding maintainability of an appeal against an interim order, submits that the impugned order dated 24.04.2023 amounts to final adjudication of the claim of the petitioners, inasmuch as the interim order has been vacated on account of the fact that certain petitioners had been granted promotion on the post of Deputy Superintendent. He further submits that in such circumstances, the impugned order falls within clauses (i) and (ii) of paragraph 16 of *Midnapore Peoples Co-op. Bank Ltd. and others'* case (supra) and as it results in final adjudication of the issue, the letters patent appeal is maintainable.

Having heard learned senior counsel for the appellants at length, we are of the considered opinion that the simple vacation of the interim order dated 03.10.2013 by the impugned order dated 24.04.2023 has not resulted in

the final adjudication of any issue or right of either of the parties involved in the writ petition. It is observed that no right or issue had been considered or decided by the learned Single Judge when an interim order in the petitioners’ case was granted on 03.10.2013. A perusal of the said order indicates that merely after narration of the position of the rules, as stated by the petitioners, stay had been granted without recording any reasons for the same. Subsequently, on an additional affidavit being filed by respondent No. 3, namely, Suresh Chander and taking note of the fact that some of the petitioners had been granted promotion during the pendency of the writ petition as Deputy Superintendent, the learned Single Judge had vacated the interim order.

In view of the aforesaid facts and circumstances, it is evident that the learned Single Judge has not adjudicated any issue or right finally. All the issues including those raised by the appellants in the present appeal are open for adjudication before the learned Single Judge. The right of the appellants to seek promotion on higher post(s) and their right to seek seniority or benefit of the provisions of the rule prior to certain persons who have been appointed or promoted later still survives and is open for adjudication before the learned Single Judge.

Quite apart from the above, the appellants have all the rights available to them under law for moving an appropriate and necessary application before the learned Single Judge seeking relief or benefit and in such circumstances, we are of the considered opinion that the present appeal filed by the appellants is not maintainable in view of the law laid down by the Supreme Court in *Midnapore Peoples Co-op. Bank Ltd. and others’* case (supra) as no issue or right has been finally adjudicated by the learned Single Judge.

The appeal, accordingly, stands dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(VIKAS BAHL)
JUDGE

28.08.2023
Amodh Sharma

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No