

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

LPA-2177-2017 (O&M)
Date of decision:02.03.2023

AMANDEEP SINGH SIRARI AND ANOTHER

... Appellants

Versus

STATE OF PUNJAB AND ANOTHER

... Respondents

**CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO,
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Mr. R. K. Malik, Sr. Advocate with
Mr. Sandeep Dhull, Advocates
for the appellants.

Mr. Karanjit Singh, Addl. A.G., Punjab.

Mr. Anil Chawla, Advocate for respondent No.3-UOI.

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

CM-4776-LPA-2017

This application is filed by the appellants for condonation of delay of 08 days in filing the accompanying Appeal.

Notice in the application.

Mr. Karanjit Singh, Addl. A.G. Punjab accepts notice in the application and states that he has no objection if this application is allowed.

Having regard to the reasons assigned in the application, and in view of the fact that the learned State counsel has no objection if this application is allowed, this application is allowed and the delay of 08 days in filing the accompanying Appeal is condoned.

Main Case

This Letter Patent Appeal is preferred by the appellants challenging the order of the learned Single Judge dated 05.09.2017 in CWP-3997-2016.

A total of 115 posts of Veterinary Officers were advertised by the Punjab Service Commission through an advertisement dated 23.01.2014. The appellants applied for the post of Veterinary Officers, appellant No.1 belongs to the Scheduled Cast Category while appellant No.2 belongs to the B.C. Category. They were interviewed on 19.11.2014, and thereafter the result of other candidates was declared on 21.11.2014 and qua the appellants, there was a note stating that as per Government Order No.32/19/2013.PP.8/3241 dated 04.08.2014 and No.32/19/13-PP8(9)/4253 dated 13.10.2014 result of certain candidates including the appellants were to be declared on final confirmation from the Government.

The candidates, whose result was declared, were allowed to join their duties in the month of August, 2015.

The appellants contended that there were 51 Post of General Category but only 35 were appointed; in Scheduled Caste Category total 17 posts were advertised and 6 candidates were selected in the General Category, and 10 candidates were selected with the Scheduled Caste Category. According to the appellants 07 Posts of Scheduled Caste Category were lying vacant. They further contended that 10 posts of BC Category and 04 candidates of BC Category had obtained higher marks than the last General Category candidates.

They also placed reliance on the judgment of the Supreme Court in ***Apollo College of Veterinary Medicine Vs. Rajasthan State Veterinary Council and Others*** (Civil Appeal No. 6842 of 2014 arising out of SLP (Civil) No.35057 of 2011 decided on 25.07.2014).

They contended that in case Reserved Category candidate had obtained higher marks than the last selected candidates in the General Category, then the Reserved Category candidate is to be accommodated in General Category vacancy and next candidate in merit of Reservation Category is entitled to be considered for appointment.

They therefore, filed the Writ Petition and sought a direction to the respondents to treat all Reserved Category candidates who obtained higher marks than the last General Category candidate in the General Category and to appoint them as Veterinary Officer.

The learned Single Judge however, dismissed the Writ Petition on the ground that appellant No.1 was at serial no.1 of the wait list in the Scheduled Caste Category and appellant No.2 was at Sr. No.1 in the waiting list of the Backward Caste Category; that their claim cannot be considered on the ground that the degrees secured by them from the Apollo College of Veterinary Medicine Jaipur and the Mahatma Gandhi Veterinary College, Bharatpur were not recognized and valid. He was further held that though the said degrees from the said College were validated by the Notification dt. 07.08.2015, the recruitment process took place in between this period and the degree of the petitioners could not be recognized, and therefore they were not eligible to be considered. He held that their names were considered and including in the subsequent merit list of the year 2017 as at that particular time, their degrees were recognized in view of the judgment of the Hon'ble Supreme Court referred to above. He also observed that they had not impleaded the affected persons as party respondents and their appointments cannot be made applicable from the date of the earlier advertisement.

Challenging the same this appeal is filed by the appellants.

On 03.03.2022 this Court passed the following order:-

“The dispute which has narrowed down now is to the fact that there is an admission by the respondents to the extent that both the appellants are No.1 on the wait-list of Scheduled Caste and Backward Class categories, which would be clear from Annexure R-1 (page 121 of the paperbook). It has further been pointed out from the writ petition that the above Reserved Category candidates had obtained higher marks than the last General Category candidate and therefore, they should have been adjusted in the General Category. Similarly, in para No.9 of the written statement filed by respondents No.1 & 2 of the writ petition, which is now subject matter of appeal, it has been admitted that 6 candidates from SC Category and 4 candidates from BC Category were securing higher marks than the last General Category candidate and therefore, they were considered in General Category and given appointments.

It is also to be noticed that as per the interim order dated 29.02.2016, while issuing notice of motion in the writ petition, one of us (G.S.Sandhawalia J.) had directed that 2 posts be not filled up in the General Category.

Even now the categorical stand of the Senior Counsel for the appellants is that out of the 51 posts of General Category, only 45 candidates have joined and 6 posts still remain vacant. In such circumstances, even if one person each from SC and BC categories is shifted to the General Category, it would put the appellants within the zone of consideration. We are prima facie of the opinion that once recognition had been granted to Apollo College of Medicine, Jaipur, recognizing the degrees issued by it between 13.05.2010 to 24.07.2015 vide notification dated 07.08.2015 (Annexure P-3) in compliance of the directions of the Apex Court in SLP (C) No.35057 of 2011 decided on 25.07.2014 (Annexure P-2), the writ petitioners could not be ignored. The resultant affect would be that the appellants were duly qualified having passed out of the said college on 25.09.2013 and 23/29.11.2012 and therefore, for all practical purposes, they were always qualified before the cut- off date i.e. 13.02.2014.

Accordingly, let necessary affidavit be filed regarding the vacant post(s), specifically qua the averments made

in para No.1 of the Letters Patent Appeal since in the writ petition, qua the specific averments made in para No.11(v), the State was silent in the reply filed thereto.

To come up on 15.03.2022.”

Pursuant to the direction given in the said order, an affidavit has been filed by Sh. Raj Pal Singh, Joint Secretary, Department of Animal and Husbandry, Fisheries and Dairy Development, Punjab, Mini Secretariat Punjab, Sector-9 Chandigarh, stating that out of 51 Posts of General Category 48 Posts were filled; out of 17 Scheduled Caste Category vacancies, 14 Posts were filled; and similarly out of 10 Posts of BC Category, 07 posts were filled; and the remaining one post of each Category i.e General, Scheduled Caste and Backward Class Category remained vacant (to be 03).

Later another reply was filed by respondents No. 1 and 2 stating that appellant No.1 had already joined the service on 27.06.2017 and had given joining report on 29.06.2017.

Learned counsel for the appellants contends that by virtue of the Notification issued on 07.08.2015 recognizing degrees issued by the Apollo College of Veterinary Medicine, Jaipur to the petitioners between 13.05.2010 to 24.07.2015, the reasoning of the learned Single Judge cannot be sustained.

We agree with the said submission and hold that the said notification validates the degrees obtained by the appellants from the Apollo College of Medicine, Jaipur which were issued on 25.11.2011 and 23.11.2012 respectively. Therefore, the appellants have to be treated as duly qualified, having passed out of the said College on the said dates, and they were thus always qualified before the cut-off date dt. 13.02.2014 fixed in the advertisement.

Since the existence of vacancies is mentioned by Sh. Raj Pal Singh, Joint Secretary, Department of Animal and Husbandry, Fisheries and Dairy Development, Punjab, Mini Secretariat Punjab, Sector-9 Chandigarh in his reply filed on 26.05.2022 and he has categorically stated in Para 4 that in the Categories of General, Scheduled Caste and Backward Classes Categories, 03 posts i.e. one each in each of such categories is vacant, the appellants who were wait listed candidate No. 1 in the category of Scheduled Caste and Backward Class, have to be appointed in the said vacancies.

Accordingly, the present appeal is allowed and respondents are directed to issue appointment letters to the appellants from the date candidates who had been recruited pursuant to the said advertisement dated 23.01.2014 had joined giving to the appellants the benefit of notional seniority from the date when other selected candidates were appointed. They shall also be granted benefit of length of service and seniority etc. on the basis of their merit position, but they shall not be entitled to any monetary benefits. This exercise shall be carried out by the respondents within 04 weeks from the date of receipt of copy of this order.

All pending CMs, if any, shall stand disposed of.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

02.03.2023
Sonia

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