

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

LPA-1252-2021 (O&M)
Date of decision:- 14.12.2023

Deepak Kumar

...Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: **HON'BLE MS. JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE**
HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sumeet Mahajan, Senior Advocate,
with Mr. Saksham Mahajan, Advocate,
Ms. Rabani Attri, Advocate,
and Mr. Shrey Sachdeva, Advocate,
for the appellant.

Mr. Deepak Balyan, Additional Advocate General, Haryana.

Mr. Kamal Sharma, Advocate,
for respondent No. 3.

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RITU BAHRI, A.C.J. (ORAL)

CM-2373-LPA-2022

Leave is granted to place on record the written statement which was filed by respondents No. 1 and 3 in CWP-27555-2015 as Annexures A-2 and A-3 and the application is allowed.

LPA-1252-2021

This appeal is directed against the judgement and order dated 25.11.2021 passed by the learned Single Judge dismissing the writ petition filed by the petitioner (appellant herein) seeking a direction to the respondent-authorities to appoint him on the post of Secretary, Municipal Committee, Urban Local Bodies, Haryana, Chandigarh.

After hearing learned counsel for the parties, the facts not in dispute are that final result of the selection process conducted by respondent No. 2 - Haryana Staff Selection Commission, whereby 17 posts of Secretary, Municipal Committee, Urban Local Bodies, Haryana, Chandigarh, had been advertised in the year 2008, was declared on 04.03.2011. As per the declaration of the result, the appellant was at Serial No. 1 in the waiting list. Respondent No. 3, namely, Ishwar Singh, was appointed on 09.03.2011 on the post of Secretary, Municipal Committee and he resigned on 05.07.2011. He was re-appointed on that post on 06.11.2012. The case of the appellant is that after resignation by respondent No. 3, the appellant had made a representation for appointment on the vacant post on 09.09.2011 as he was at Sr. No. 1 in the waiting list. The grievance is that instead of appointing the appellant after a gap

of almost a year, on 06.11.2012 respondent No. 3 was again appointed as Secretary, Municipal Committee despite the fact that his resignation was accepted on the same day i.e. 05.07.2011.

The question for consideration in the present appeal is whether the appellant had a right to be appointed after the resignation of respondent No. 3 was accepted on 05.07.2011 since the appellant was at Sr. No. 1 in the waiting list and he had made his request for appointment on 09.09.2011 and his request had been declined vide PUC dated 22.09.2011 (Annexure P-8). A perusal of the PUC at page 66 of the paper book shows that the application for appointment of the appellant had been considered and filed on 22.09.2011. The application was not rejected on the ground that it was filed late. It was well within one year of expiry of the waiting list on 04.03.2012 keeping in view that the result was declared on 04.03.2011. The writ petition filed by the petitioner had been dismissed by the learned Single Judge by observing that the result was declared on 04.03.2011 and period of 10 years had passed and life-span of the waiting list had also elapsed and respondent No. 3 was no longer working against the post of Secretary, Municipal Committee, Urban Local Bodies, Haryana, Chandigarh. The appellant’s case cannot be declined on the ground that life-span of the waiting list had elapsed as the appellant after declaration of the result on 04.03.2011 and after resignation of respondent No. 3 on 05.07.2011 had made an application on 09.09.2011 which was rejected vide PUC dated 22.09.2011 (Annexure P-8) within the period of validity of the waiting list. It is apparent from the record that when the impugned order dated 22.09.2011 was passed, the relevant instructions prevalent were 07.05.2010 (Annexure P-9). As per the said instructions, the instructions dated 03.08.2009 were withdrawn keeping in view the fact that the validity of the waiting list would be for a period of one year.

In the circumstances, the appeal is allowed.

The appellant is, accordingly, directed to be appointed within a period of four weeks without consequential benefits.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

14.12.2023
Amodh Sharma

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