

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

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LPA-1515-2023(O&M)
Date of decision: 20.10.2023

Harkrishan Singh

... Appellant

Versus

State of Punjab and others

... Respondents

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

Present: Ms.Simran Grewal Randhawa, Advocate, for the appellant

Ms.Lavanya Paul, Deputy Advocate General, Punjab

AMAN CHAUDHARY, J.

1. The present intra-court appeal, under Clause X of the Letters Patent, has been filed against the judgment dated 22.09.2023, vide which the civil writ petition preferred by the appellant came to be dismissed.

2. Learned counsel would submit that without having latest LDESM Certification, respondent Nos.4 to 10 were issued the appointment, which is contrary to the record. No documents were produced by the said respondents before the authority and without considering the said fact, learned Single Judge had passed the order dismissing the petition. The appellant had a better claim to the post.

3. Learned State Counsel has put in appearance on receipt of advance notice and asserts that the private respondents had been appointed after due verification of their certificates and the appellant being at Sr.No.12 in the waiting list could not be appointed. Thus, the impugned judgment has been rightly passed.

4. Heard the learned counsel for the appellant as well as the State counsel.

5. Notably, since no Ex-serviceman candidate had applied in the ESM/LDESM category, the candidates belonging to LDESM were considered and a merit list was prepared, wherein the appellant was placed at Sr.No.4 in the waiting list. The appointment was offered to respondent Nos. 4 to 10, who were working in National Rural Health Mission Scheme, on contract basis and had already submitted their LDESM certificates with the Department of Health and Family Welfare. The certificates were still got verified by the Department from Defence/Sainik Welfare Department, Punjab.

6. A judgment in **Sudesh Kumar Goyal vs. State of Haryana**, 2023 SCC OnLine SC 1201, can be gainfully referred to, wherein Hon'ble the Supreme Court observed and held that, "In view of the reasoning given by the respondents for appointing only 13 selected candidates leaving the appellant who was at Sl. No.14, we are of the opinion that the respondents have justified the appointments and have not acted in an arbitrary manner. The respondents have acted fairly and logically without any malice against the appellant. Thus, on the touchstone of the decision cited on behalf of the appellant himself, we do not find any arbitrariness on the part of the respondents. Therefore, the decision of the Division Bench of the High Court is not liable to be disturbed on the above count, more particularly when the appellant has not acquired any indefeasible right to be appointed because he qualified in the selection process." In the present case, the appellant-a waitlisted candidate, who having rubbed shoulders with others, remained unsuccessful to make it to the merit list, neither has a cause nor would gain anything by seeking the ouster of those selected and appointed on merit, especially, there being no justifiable reason for the same.

7. In conspectus of the above, this Court finds no illegality or perversity in the judgment passed by the learned Single Judge. Accordingly, the present appeal being sans merit, is hereby dismissed.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

20.10.2023
gsv

Whether speaking / reasoned: YES / NO

Whether Reportable: YES / NO