

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Date of decision: 25.07.2023

1. COCP-2890-2022 (O&M)

Lalitesh Sharma and Ors.

....Petitioners

Versus

Mahavir Singh and Ors.

....Respondents

2. COCP-683-2023 (O&M)

Mukesh

....Petitioner

Versus

Mahavir Singh and Anr.

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. P.S. Jammu, Advocate  
and Mr. Gopal Sharma, Advocate  
for the petitioner(s).

Mr. Harsh Vardhan Shehrawat, AAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

The order dated 13.11.2017 passed in CWP No.25682 of  
2014, wherein the following directions were issued, reads as under:-

*“Resultantly, this Court is of the opinion that the petitioners would be entitled for appointment against the vacant seats which were never consumed being in the zone of consideration and accordingly, the writ petitions are allowed. The petitioners shall be offered appointment letters and the State should operate the merit list in the respective categories in the subjects of English, Hindi, and Biology. In case there are persons senior in merit than the petitioners, they will firstly be offered the said posts and in case the vacancies still exist, the petitioners will be accommodated. The necessary exercise be concluded within a period of two months from the date of receipt of certified copy of the judgment.”*

It is admitted case that in the LPA, the said directions were modified by making the following observations:-

*“There is indeed no doubt that even if the respondents had been selected on merit and were within the zone of the advertised vacancies, it would not confer a right upon them to claim appointment. As an extension of that logic they being next in merit list to those selected would also have no right to claim appointment. The only direction that the Writ Court could have given considering the vacancy positions and the respondents being next up in merit after the selected candidates, was that they ought to be considered by the State for appointment.*

*Learned Single Judge committed a wrong in saying that the respondents are entitled for appointment which binds the appellant to a mandate. Therefore, we only clarify the order of learned Single Judge to mean that the private respondents be considered for appointments in view of the existing vacancies.*

*All appeals stand disposed of in above terms.”*

A perusal of the Appellate Court order would leave no doubt that it is held that the petitioners have no right to claim appointment and the only direction could be given for considering the vacancy position.

Counsel for the petitioners submit that despite availability of the vacancies, the letter of appointment is not issued to the petitioners.

As per the affidavit filed by the Additional Chief Secretary to Government of Haryana, School Education Department, a speaking order is passed on 20.06.2023, in which the following observations has been made:-

**2023:PHHC:094216**

*“That in light of the instructions dated 01.07.2008, Haryana School Teachers Selection Board did not prepare the waiting list for the said post. It is further submitted that the then Board and now the Commission is bound by the instructions issued by the Government of Haryana from time to time. Thus, keeping in view of the above, the commission cannot bypass the instructions dated 01.07.2008 issued by the Govt. of Haryana that clearly states not to maintain any waiting list in respect of Group-B posts.*

*That it is germane to mention here that after the completion of the selection process against Adv. No.1/2012, the Commission again issued the Advt. No.4/2015, for filling up 626 posts of PGT Sanskrit (including 89 posts of SC's) Backlog) under CAT.No.16 and final result of said advertisement was also declared on 01.01.2018.*

*That in view of the above-mentioned instructions dated 01.07.2008, the Haryana Staff Selection Commission has not prepared the waiting list for the post of PGT Sanskrit as it is a Group B (Gazetted) post.*

*In view of the position explained above, it is clear that the petitioner is not selected for the post of PGT Sanskrit due to obtaining lesser marks and in the light of the facts and instructions explained above and also in the absence of any statutory provisions for preparing the waiting list in addition to the selection list, the claim of the petitioner is denied and rejected being devoid of merits.”*

In view of the above, once the necessary compliance has been made in terms of the order passed by the Appellate Court, modifying the order passed by the Writ Court, no willful disobedience is made out.

**2023:PHHC:094216**

Accordingly, the present petition is disposed of having been rendered infructuous.

However, liberty is granted to the petitioners to avail the alternative remedy in accordance with law, if so advised.

A photocopy of this order be placed on the file of other connected case.

**(ARVIND SINGH SANGWAN)**  
**JUDGE**

**25.07.2023**  
*yakub*

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