

LPA-416-2019 (O&M)

2024.PHHC:151122-DB



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

LPA-416-2019 (O&M)
Date of decision: 19.11.2024

GURMEET KAUR

..... Appellant(s)

Versus

STATE OF PUNJAB AND OTHERS

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. H.S. Ahuja, Advocate
for appellant.

Mr. Sartaj Singh Gill, Senior D.A.G., Punjab.

LISA GILL, J.

1. Prayer in this appeal is for setting aside order dated 15.01.2019, wherein CWP-38138-2018, filed by appellant-writ petitioner has been dismissed by learned Single Bench.

2. Appellant-writ petitioner filed the above said writ petition for setting aside merit list dated 08.10.2018 of Asha Facilitators. She also challenged appointment of respondent no.5 as Asha Facilitator for Sector Rampura Village, on the premise that marks have been illegally and incorrectly awarded for incentive earned by candidates for the said post. Appellant working as Asha Worker, staked her claim to the post of Asha Facilitator.

LPA-416-2019 (O&M)

3. Learned counsel for appellant contends that the guidelines for appointment to Asha Facilitators attached as Annexure P-1 with the writ petition were not followed. Objections in terms of Clause 4 could have been entertained only within two days. Objections submitted by respondent no.5 and the others were incorrectly entertained, leading to selection of respondent no.5 to the post of Asha Facilitator.

4. Learned counsel further submitted that once merit list dated 25.06.2018 was finalized wherein present appellant stood selected, there was no question or occasion for yet again conducting the process of selection or interview the candidates again. Procedure so followed, it is submitted, is absolutely erroneous. Learned writ Court, it is contended, has not appreciated the controversy in its correct perspective and impugned order dated 15.01.2019 has been incorrectly passed. It is thus prayed this appeal be allowed and impugned order dated 15.01.2019 be set aside and writ petition be allowed as prayed for.

5. Learned counsel for respondents vehemently opposed the appeal while submitting that appellant cannot gain any benefit from the merit list which was prepared in contravention of applicable guidelines. Selection Committee had incorrectly considered only three completed years of experience for calculating weightage to be given for average incentive earned by candidates per month leading to incorrect merit list. Once this fact came to notice of authorities, Selection Committee was reconstituted and all candidates who had come present including appellant were interviewed again and merit drawn-up in strict accordance with the guidelines. It is thus prayed that this appeal be dismissed.

6. We have heard learned counsel for the parties and have gone through the file with their able assistance.

LPA-416-2019 (O&M)

7. Appellant, admittedly working as Asha Worker, sought appointment to the post of Asha Facilitator. It is pleaded case of appellant that as per selection criteria mentioned at Srl. No.3(d) of guidelines, attached as Annexure P-1, merit would be calculated as under:-

(d) while calculating the merit, following weightage may be given:-

(i) Percentage of the marks obtained in 10+2;

(ii) 5 marks each for one completed year of experience as ASHA worker;

(iii) If the average incentive earned by the ASHA worker is more than Rs.1000/- a month, then 5 additional marks may be given and in case the incentive is more than Rs.1500/- a month, then 10 marks can be given;

8. It is further undeniable that Selection Committee at the first instance had erred in taking into consideration only three completed years of experience for calculation of weightage to be given for average incentive earned per month by candidates. Once this shortcoming came to notice of authorities, immediate steps were taken, fresh Selection Committee was constituted vide order dated 10.09.2018. Applications invited from eligible candidates. Appellant was admittedly interviewed again by the Selection Board/Committee. It is specifically mentioned in affidavit dated 10.07.2023 of Dr. Gurmail Singh, Incharge CHC, Balianwali, District Bathinda, that appellant scored 135 marks whereas respondent no.5 scored 143 marks. Details of total incentives earned are mentioned in para 7 of affidavit. These facts as mentioned in affidavit dated 10.07.2023, have not been controverted.

9. We do not find any merit in the argument raised by learned counsel for appellant that in terms of Clause 4 of guidelines, attached as Annexure P-1, objections could only have been received within two days and that the objections having been submitted at a later point of time, could not have been entertained. Appellant has duly participated in subsequent selection process without demure.

LPA-416-2019 (O&M)

10. Learned counsel for appellant is unable to point out any infirmity, irregularity or perversity in the impugned order dated 15.01.20219, passed by learned Single Bench, which is accordingly upheld.
11. No other argument has been addressed.
12. Keeping in view the facts and circumstances as above, this appeal is accordingly dismissed with no order as to cost.

(LISA GILL)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

19.11.2024
Sunil

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No