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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:023778-DB
LPA-492-2019 (O&M)
Date of Decision: 20.02.2024

State of Punjab and others
Vs.
Shakeela Bano and others

...Appellants
...Respondents

CORAM: HON’BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON’BLE MR. JUSTICE VIKAS SURI

Present Mr. Arjun Sheoran, DAG, Punjab for the appellants.
Mr. Mohd. Yousaf, Advocate for respondent No.1.
Mr. H.C. Arora, Advocate with
Ms. Saguna Arora, Advocate for respondent Nos.4 to 9.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The appellants-State of Punjab and others have challenged the order passed by the learned Single Bench dated 13.09.2018, directing the appellants to offer appointment to the writ petitioner (respondent No.1 herein) for the post of teaching fellow.
2. Learned counsel for the appellants submits that although the respondent-writ petitioner was possessing higher merit and had secured 58.376 marks, she chose not to appear in the first counselling which was conducted for appointment of BC category (female) and consequentially all the posts of BC category (female) were filled up in the first counselling itself and the last candidate who secured appointment possessed 58.178 marks.
3. In view thereof, so far as selection of the candidates from BC category (female) are concerned, the same does not warrant any interference.
4. Learned counsel further submits that the second counselling in which the respondent-writ petitioner participated, was found to be faulty and departmental action was taken against the concerned Selecting Officer and the

appointment of less meritorious persons in the second counselling was cancelled. The other candidates mentioned at Sr. No.6 to 11 in the array of respondents in the writ petition belong to handicapped category and, therefore, they had no *lis* with the writ petitioners. The effected candidates who had been wrongly selected, preferred writ petition No.10670-2010, titled as Liaqat Ali and others vs. State of Punjab and others, wherein an interim order was passed in their favour. It is also informed by learned counsel for the appellants that the writ petition was allowed on 27.01.2020. Learned counsel further submits that based on the said parity, the learned Single Bench ought not have allowed the writ petition of the respondent-writ petitioner.

5. Learned counsel for respondent No.1-writ petitioner vehemently argued that since the persons lesser in merit were appointed under the same counselling held on 13.12.2011, wherein the petitioner too have participated and such appointed persons have been allowed to continue by this Court in Liaqat Ali's case (*supra*), the writ petitioner who had agitated her claim long back in the year 2012 and again reiterated her claim after the speaking order was passed by filing writ petition No.6110-2014, she cannot be deprived of her lawful claim of higher merit.

6. We have noticed the arguments and found that the appellants had conducted the second counselling in terms of the judgment passed by this Court in the case of Neelam Rani vs. State of Punjab and others, CWP-12275-2000, decided on 08.01.2010, which directed for filling up the remaining posts. The writ petitioner also participated in the said counselling which was held on 13.12.2011. However, on certain complaints, the result of the second counselling was cancelled and the writ petitioner was not offered appointment while some of the candidates who participated in the same counselling were

appointed vide letter dated 19.04.2011 (date has been noted from the judgment passed in Liaqat Ali’s case supra).

7. It is an admitted position from the reply filed by the appellants that Liaqat Ali and others who were allowed to continue by this Court, were having lesser merit than the writ petitioner. The said aspect has also been noticed by the learned Single Bench.

8. In view thereof, this Court has no hesitation to reassert the view taken by the learned Single Bench and dismiss the appeal of the State and direct the State to now consider the case of the writ petitioner for appointment on the post of Teaching Fellow from the date persons lower to her in merit were appointed on 19.04.2011 i.e. the candidates who were appointed pursuant to the second counselling and the writ petitioner be also given notional benefits including seniority from the said date. The pay fixation shall be done notionally and actually from the date of passing of order by the learned Single Bench i.e. 13.09.2018. Necessary exercise shall be done within two months henceforth.

9. The appeal is accordingly found to be bereft of merit and is accordingly dismissed.

10. No costs.

11. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(VIKAS SURI)
JUDGE

20.02.2024

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| 1. Whether speaking/reasoned? | : | Yes/No |
| 2. Whether reportable? | : | Yes/No |