

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

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2024:PHHC:034363-DB

LPA-658-2024 (O & M)
Date of Decision: 11.03.2024

State of Haryana and others

.....Appellant(s)

Versus

Satish Kumar

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. Deepak Balyan, Addl. A.G., Haryana.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

1. Consideration in the present letters patent appeal is to the order dated 04.09.2023 passed by the learned Single Judge in CWP-9617-2023 whereby the writ petition was allowed and the order dated 21.04.2021 (Annexure P-12), whereby the services of the writ petitioner had been terminated, was set aside allowing him to continue in service.

2. It is not disputed that during the pendency of the writ petition, an interim order dated 25.05.2023 had already been passed protecting the services of the writ petitioner who is visually impaired. The reason for terminating the services by the respondents was that while filling up the form, he had taken benefit of the fact that he was placed at a disadvantageous position and applied under socio-economic criteria where he had taken the benefit of 5 marks on the ground that his father was not in service while securing employment as a Peon in the Department of Revenue with the State of Haryana on 05.02.2019. On verification, it had been found that his father was an ex-serviceman and, therefore, the Deputy Commissioner, Palwal issued show cause notice dated 18.10.2021 (Annexure P-3) that he had violated the terms and conditions of his appointment

letter by giving wrong information. The written reply dated 22.10.2021

(Annexure P-4) filed by the writ petitioner-respondent was not found satisfactory and his services were terminated in spite of the fact that he had mentioned that he was 40% visually disabled and that he could not read the conditions of appointment letter and the undertaking given. The learned Single Judge has noticed that while filing reply to the show cause notice, the defence was that his form had been filled up by someone else and the appellant was not in a position to fill the same and therefore, the discrepancy had occurred. On merits, it was found that he had secured more marks from the last selected candidate under the category in which he had applied. Even if the 5 marks which he had obtained by applying under the said category are withdrawn, he would still come within the zone of consideration due to his merit. In such circumstances, the writ petition was allowed by coming to the conclusion that the issue should have been considered in a compassionate manner by keeping in mind the merit as such and even if the concession which was sought to be taken was withdrawn, he would still come within the zone of consideration for appointment.

3. Apparently, no forged document as such was appended to secure the appointment and keeping in view the fact that the writ petitioner as such is 40% visually handicapped, the explanation which he had given was found to be justified to the extent that he had taken the help from an attendant even to appear in the exam and the form had been filled up by the cyber operator. This aspect apparently was not taken into consideration by the Deputy Commissioner while terminating the services of the writ petitioner.

4. In such circumstances, we are of the considered opinion that on the ground of equity while exercising the extra ordinary writ jurisdiction, the learned Single Judge was well justified in setting aside the order of termination. The appellant was already continuing in service on account of interim protection and,

5. Accordingly, finding no merit in the appeal, the same is dismissed. Resultantly, the application for condonation of delay has been rendered infructuous and is disposed of as such.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

11.03.2024
shivani

(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No