



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

118/1

LPA-780-2024 (O&M)

Date of Decision:- 22.11.2024

ROSHAN LAL

....Appellant(s)

Versus

STATE OF HARYANA AND OTHERS

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE SANJIV BERRY**

Present : Ms. Anu Chatrath, Senior Advocate with
Mr. Nikhil Singh, Mr. Ratik Kapur and
Mr. Shourya Mehra, Advocates for the appellant.

Mr. Vivek Chauhan, Additional A.G. Haryana.

Mr. Gagneshwar Walia, Advocate
for respondent No.4-Subhash Chand.

DEEPAK SIBAL. J. (Oral)

1. On 22.08.2007, the appellant was recruited as a Workshop Attendant by the State of Haryana. His appointment was on contractual basis. On 08.08.2014, his services as a Workshop Attendant were regularized. In the year 2014 itself, respondent No.4, knocked the doors of this Court through a petition being CWP-18930-2014 titled '*Subhash Chand Vs. The Director of Industrial Training Institute and others*' questioning the selection and appointment of the appellant. Through judgment dated



21.02.2017, a learned Single Judge of this Court allowed respondent No.4's petition. Resultantly, the appellant's appointment was set aside and in his place, a direction was issued to the State to consider respondent No.4's claim for appointment as a Workshop Attendant, though on notional basis. So far as the appellant was concerned, directions were issued to the State to also consider his case for appointment but only if a vacancy of Workshop Attendant was available with a further rider that in case the appellant was appointed to the said post, he shall rank junior to respondent No.4.

2. The appellant challenged the judgment of learned Single Judge through an Intra Court appeal being LPA-418-2017 titled '*Roshan Lal Vs. Subhash Chand and others*'. However, this Intra Court Appeal was withdrawn by him on 15.02.2024, with liberty to him to pursue the matter with the Department in terms of the observations made by the learned Single Judge in the afore-referred judgment dated 21.02.2017.

3. After representing to the Department, the appellant did not wait long for a decision thereupon and again petitioned this Court through which he sought issuance of directions to the respondent-Department not to relieve him. A learned Single Judge considered his petition and being of the view that the matter with regard to the appellant's service having conclusively been decided through the earlier judgment of this Court dated 21.02.2017, dismissed the appellant's petition with costs. Such judgment of the learned Single Judge is under challenge before us through the present Intra Court Appeal.

4. Learned counsel for the parties have been heard.



5. The appellant's appointment by the State as a Workshop Attendant was challenged before this Court by respondent No.4. Through judgment dated 21.02.2017, respondent No.4's challenge was accepted by a learned Single Judge of this Court. The operative part of such judgment reads as follow:-

"In view of these facts and circumstances, the selection and appointment of fourth respondent to the post of Workshop Attendant is set aside and the selecting authority is directed to reconsider the petitioner's claim for appointment to the post of Workshop Attendant on notional basis. However, it is made clear that petitioner if selected and appointed would not be entitled for arrears of pay for the intervening period. The above exercise shall be completed within a period of four months from today. Insofar as fate of the fourth respondent appointment is concerned, it is for the selecting and appointing authority to consider if the vacancy of Workshop Attendant is available, the fourth respondent may be appointed to the post of Workshop Attendant. If he is appointed in such circumstance, petitioner would be senior to the fourth respondent for extending all service benefits. Such action shall be taken within a period of six months."

6. Against the afore-referred judgment, an Intra Court Appeal was preferred by the appellant, which was permitted to be withdrawn through the following order:-

"1. After arguing for sometime, learned counsel for the appellant prays to withdraw the appeal with liberty to pursue the matter with the department in terms of the observations made by the learned Single Judge.

2. Granting him liberty, the instant appeal is dismissed as withdrawn.

3. All interim orders passed in the appeal also stand vacated.



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

7. A harmonious reading of both the afore-referred orders clearly reveal that the appellant's appointment as a Workshop Attendant was set aside by the learned Single Judge of this Court and on the withdrawal of the Intra Court Appeal, the setting aside of the appellant's appointment attained finality. The only observation made in the appellant's favour by the learned Single Judge in his judgment dated 21.02.2017 was that after adjusting respondent No.4 if there still existed a vacancy of Workshop Attendant, the appellant may be considered for appointment against that vacancy and that if he was appointed, he would rank junior to respondent No.4.

8. In the light of the above, through the impugned judgment, the appellant has rightly been declined the relief prayed for by him. Therefore, we find no error in the impugned judgment and dispose of this appeal by directing the State, in terms of the earlier judgment of this Court dated 21.02.2017, that in case there exists a vacancy of Workshop Attendant in the respondent-Department, the appellant's case be considered for appointment against such post but strictly in terms of the directions given by this Court in its judgment dated 21.02.2017. Such decision be taken by the State within a period of one month.

9. Taking a purely sympathetic view, we further direct that till the respondent-State takes a final decision, as above, the appellant may be allowed to continue in service in terms of the interim order passed in this appeal by a Co-ordinate Bench on 27.05.2024.



10. The litigation expenses deposited by the appellant in this Court, in terms of the order dated 27.05.2024, be released in favour of respondent No.4.

11. Disposed of.

(DEEPAK SIBAL)
JUDGE

(SANJIV BERRY)
JUDGE

22.11.2024
S.Sharma(syr)

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No