

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2024:PHHC:060380-DB

(108) LPA-1049-2024 (O&M)
Decided on : 02.05.2024

Pawan Kumar GuptaAppellant(s)

Versus

State of Haryana and othersRespondent(s)

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

Present:- Mr. Ashutosh Gupta, Advocate for the appellant.

Mr. Deepak Balyan, Addl. AG, Haryana.

Mr. Sunish Bindlish, Advocate and
Mr. Naman Jain, Advocate for respondent Nos.3 & 4.

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-2551-LPA-2024

Application for condonation of delay of 263 days in filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit of the appellant. Delay of 263 days in filing the appeal is condoned.

CM stands disposed of.

LPA-1049-2024 (O&M)

Consideration in the present letters patent appeal is sought of the order dated 06.07.2023 of the learned Single Judge passed in CWP-7805-2022, whereby the writ petition filed by the appellant was dismissed.

2. Challenge in the writ petition was raised to the appointment letter dated 13.12.2019 (Annexure P-12) of respondent No.5 as Principal of the Institute of Hotel Management, Panipat and to take appropriate action on the representation dated 11.01.2022 (Annexure P-1) and to conduct inquiry as such. The appellant/writ petitioner himself is a Principal of Institute of Hotel Management Catering Technology and Applied Nutrition, Kurukshetra. He was, thus, aggrieved against the appointment to the post of Principal of another institute at Panipat, which had been granted to the private respondent.

3. The learned Single Judge while deciding two writ petition including CWP-12683-2022 filed by one Rahul Raj Singh, came to the conclusion that the present appellant had no *locus standi*, as his right has not been violated and he was not a aggrieved party. Reliance was placed upon the judgment of the Apex Court in **JasbhaiMotibhai Desai VS. Roshan Kumar, Haji Bashir Ahmed, 1976 (3) SCR 58**. It was noticed that the said respondent was having a 1st Class Degree from Lucknow University and 3 years Diploma in Hotel Management from Institute of Hotel Management, Lucknow and 25 years of experience in the line and, therefore, at the time of deputation the rules of National Council of Hotel Management and Catering Technology (NCHMCT) were not applicable as rules of Haryana Technical Education Board were being followed. The rules being adopted for the first time by the Board of Governors in its meeting held on 13.04.2013 after the

appointment on deputation. The writ petitioner being a member of Board of Governors had never raised any objection at the time of extension, since the writ petitioner himself was a signatory to the meetings and said respondent No.5 had already superannuated and thereafter engaged on contractual basis from 01.07.2022 to 30.06.2023.

4. We have perused the paper-book as such and noticed the initial noting portion (Annexure R-4) whereby for the first time the file had been put up in November, 2012 regarding the issue of deputation of the said respondent and noticed that he was having prescribed qualification. In such circumstances, he was recommended for a period of one year or till the regular Principal for IHM, Panipat is appointed. It is not disputed that the said deputation was dragged on for several years and no effort was made to appoint a regular Principal. The said respondent on 04.12.2012 (Annexure P-3) had initially been given the charge in his own pay scale being the Senior Instructor for a period of one year or till the regular Principal is appointed and he was not to claim any financial benefit on that account. Apparently, thereafter the condition was modified and he was given the higher pay-scale also, which would be clear from letter dated 13.11.2018 (Annexure P-3). Suddenly from the pay scale of Rs.9300-34800+5400 GP, in which he was working, he was given the pay scale of Rs.37400-67000+8700 GP, which would be clear from (Annexure P-3). It is, thus, apparent that said respondent was a blue eyed boy of the State and has earned various benefits including post retirement assignment.

5. However, in view the fact that it was a service rivalry between the two, hence, at this stage, we do not feel it a fit case to interfere in the well

reasoned order of the learned Single Judge. The learned Single Judge has rightly observed that the writ petitioner has no *locus standi*, since he was not an aspirant for the post in question himself being a Principal. Resultantly, in view of the above discussion, there is no merit in the present letters patent appeal and the same is hereby dismissed in *limine*.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

02.05.2024
Naveen

Whether speaking/reasoned :	Yes
Whether Reportable :	No