



LPA-1195-2019 (O&M)

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

Sr. No.229

LPA-1195-2019 (O&M)

Date of decision: 16.09.2024

Dr. Pardeep Kumar

....Appellant

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Rahil Mahajan, Advocate for
Mr. S.K. Nehra, Advocate
for the appellant.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

* * *

DEEPAK SIBAL, J. (Oral)

1. The present intra court appeal is directed against the judgment dated 29.05.2019 passed by a learned Single Judge of this Court dismissing the appellant's writ petition on the ground of delay and latches.

2. A few relevant facts may be noticed.

3. Through advertisement No.1/2012 dated 07.06.2012, the Haryana School Teachers Selection Board (for short – Board) invited applications for appointment to several posts including Post Graduate Teachers in Hindi (for short – PGT, Hindi). The appellant was an applicant for the post of PGT, Hindi. In his application, he gave all necessary details including the fact that in the year 2009 he had done his M. Phil. After the appellant underwent the selection process, the final result was declared on

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01.01.2014 as per which the appellant secured 54.04 marks. Since the last selected candidate in the general category, to which the appellant also belonged, had secured 56.01 marks, the appellant was denied appointment.

4. In the year 2014, many applicants for the post of PGT, Hindi, approached this Court through several petitions one of which was CWP-18496-2014 – Parveen Kumari vs. State of Haryana and others. These petitioners claimed appointment on several grounds. A learned Single Judge of this Court, through judgment dated 13.11.2017, disposed of these petitions, including Parveen Kumari's petition, with a direction to the State to offer appointment to the petitioners therein and in case if there were persons who had secured more marks than those petitioners then they would be given preference and if only thereafter, any vacancies continued to exist, they would be offered to the petitioners therein.

5. According to the appellant, when he came to know of such decision he immediately, through an application dated 17.11.2017, filed under the Right to Information Act, 2005 (for short – RTI Act), sought information from the Board with regard to the marks granted to the appellant according to the prescribed selection criteria. In reply dated 22.12.2017, the Board informed the appellant that he had secured 54.04 marks and that even though there were 02 marks earmarked for possessing the academic qualification of M.Phil., the appellant had not been granted any mark for the same.

6. Thereafter, without any delay, the appellant knocked the doors of this Court through filing of a petition through which he claimed

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appointment as PGT, Hindi on the ground that had he been given those 02 marks earmarked for M.Phil to which he was entitled to, he would have secured 56.04 marks which would be more than last person selected in the general category to which he belonged. A learned Single Judge of this Court dismissed the appellant's writ petition on the ground that the appellant had approached this Court after a delay of over 03 years. Such judgment is the subject matter of the challenge through the present intra court appeal.

7. Learned counsel for the parties have been heard.

8. The appellant was an applicant for the post of PGT, Hindi. As per the final result the last person appointed in the general category, to which the appellant also belonged, had secured 56.01 marks whereas the appellant had secured 54.04 marks. Therefore, the appellant was denied appointment.

9. It is the admitted position that as per the selection criteria followed by the Board 02 marks had been earmarked for the academic qualification of M.Phil and that though the appellant had done his M.Phil he had “inadvertently” not been granted these marks by the Board.

10. An affidavit of the Chairman of the Board filed before this Court further reveals that there were no records available with the Board which would show that the selection criteria as per which 02 marks had been earmarked for the academic qualification of M.Phil or the final result sheet depicting grant of marks under different heads was ever published or made public. Thus, after the declaration of the final result and till he got the sought information from the Board under the RTI Act, the appellant was

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completely ignorant of the wrong that he had been subjected to.

11. In the light of the above facts, when the Board admits to its mistake of having not granted to the appellant 02 marks to which he was entitled to and if that had been done, the appellant's score would have been more than the last candidate appointed as PGT, Hindi, for which inaction on the part of the Board, the appellant cannot be faulted, we are of the opinion that the learned Single Judge should have, in the exercise of this Court's extra ordinary writ jurisdiction, not thrown out the appellant on the ground of delay and latches especially when there is no record available with the Board which would show that between the date of publication of the final results in the year 2014 and the date of filing of the appellant's petition the Board had at any point of time made public the final result sheet showing grant of marks under different heads or its selection criteria as per which 02 marks had been earmarked for the academic qualification of M.Phil.

12. In view of the above, we set aside the impugned judgment with a direction to the State to consider the appellant's case for appointment as PGT, Hindi against any of the vacancies which would be available with the State as on date. It is further directed that on his appointment as PGT, Hindi the appellant would be entitled to continuity of service from the date that the last person lower in merit than the appellant was appointed as PGT, Hindi in the General Category in pursuance to the advertisement No.1/2012. However, the appellant, in terms of his own undertaking given before this Court, shall not be entitled to any arrears. The needful be done by the State within 03 months from today.

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13. The present appeal is allowed in the above terms.
14. All pending miscellaneous application(s), if any, also stand disposed of.

(DEEPAK SIBAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

September 16, 2024
Jyoti 1

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