

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

217

RSA-2846-2016 (O&M)
Decided on :05.04.2024

SMT. MUNESH

.....APPELLANT

Versus

PROJECT OFFICER, DISTRICT I.C.D.S. CELL, NARNAUL AND
OTHERS ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Manoj Chahal, Advocate for the appellant.

Mr. Harish Nain, AAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present appeal, the challenge is to the judgment and decree of the lower Appellate Court dated 01.03.2016 vide which, the judgment and decree of the trial Court dated 15.02.2014 was set aside and the suit filed by the appellant-plaintiff was dismissed.

2. Certain facts needs to be mentioned for correct appreciation of the issue in hand.

3. The respondents issued an advertisement for appointment on the post of Anganwari Worker in Village Sayana Tehsil & District Mahendergarh. The appellant-plaintiff competed for the said post, but the respondents did not conclude the said process of selection for the post in question and the interview for the post in question was ordered to be conducted again keeping in view the certain allegations.

4. The said decision to conduct the interview again was challenged

by the appellant-plaintiff by filing the civil suit before the trial Court. The Civil suit came to be allowed on 15.02.2024 and direction was given that the selection process be concluded on the basis of interview that was already held by the department concerned.

5. Feeling aggrieved against the said judgment and decree of the trial Court dated 15.02.2004, the respondent-appellant filed an appeal before the Lower Appellate Court which came to be decided on 01.03.2016. The Learned lower appellate Court held that the findings recorded by the learned trial Court that there was no irregularities in the earlier interview, is contrary to the evidence which has come on record and the decision by the department to hold the fresh interviews needs no interference at the hands of the Court.

6. The said judgment and decree of the Lower Appellate Court dated 01.03.2016 is under challenge in the present regular second appeal.

7. Learned counsel for the appellant-plaintiff submits that once, the trial Court while passing the judgment and decree dated 15.02.2014 has recorded the findings that there was no irregularities found in the earlier interview held for the post in question, the same should have been maintained by the learned Lower Appellate Court rather than to set-aside the judgment and decree of the trial Court dated 15.02.2014.

8. Learned State counsel on the other hand submits that the Lower Appellate Court while passing the judgment and decree dated 01.03.2016 has given the reasons that there were complaints raised against the earlier interview held by the department and also the marks being given to the candidates by the selecting agencies were not in accordance with the criteria fixed by the department concerned and the complaints were looked into by the competent authority and then the decision was taken to hold the

interview a fresh which action needs no interference by the Court.

9. I have heard learned counsel for the parties and have gone through the record with their able assistance.

10. The Court is not required to sit as a Appellate Body over the decision of the selecting Committee. Once, it has already come on record that there were complaints with regard to conduct of the interview and certain *mala fides* were also attached so as to show the marks given to the appellant as compared to the other candidates was disproportionate, the decision of the department which has been taken with *bona fide* intention and after scrutiny of the record, has rightly been dealt by the lower Appellate Court.

11. The trial Court while recording the findings in the judgment and decree dated 15.02.2014 has mentioned that there should have been an enquiry. Even if, there is no enquiry conducted but the competent authority keeping in view the allegations made in the complaint coupled with the scrutiny of the record finds some discrepancies in the interview process, selecting agency is well within its right to decide as to whether interview process already undertaken need a review or not. Once, a bona fide decision has been taken by the competent authority to hold the interview again, the same should not have been interfered by the trial Court and judgment and the decree of the trial Court has rightly been set-aside by the Lower Appellate Court.

12. Further, learned counsel for the appellant has been required to point out any perversity in the judgment and decree of the Lower Appellate Court, but no such perversity in the judgment and decree of the Lower Appellate Court has been pointed out by the counsel for the appellant, hence, keeping in view the facts and circumstances of the present case recorded

herein above, no ground is made out for any interference by this Court in the present regular second appeal, hence, the same stands **dismissed**.

13. Pending miscellaneous application, if any, shall also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

05.04.2024

Riya

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*