

2025:PHHC:055746-DB



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

LPA-2718-2024 (O&M)

Date of decision:29.04.2025

BALJINDER KAUR

.....Appellant

Versus

STATE OF PUNJAB & ORS.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE ALOK JAIN**

Present:- Mr. Rajeshwar Singh Thakur, Advocate for the appellant.

Ms. Arundhati Kulshreshtha, AAG, Punjab.

SUDHIR SINGH, J.

CM-6621-LPA-2024

For the reasons given in the application, the same is allowed. Delay of 86 days in re-filing the appeal is condoned.

CM-6622-LPA-2024

For the reasons given in the application, the same is allowed. Delay of 167 days in filing the appeal is condoned.

LPA-2718-2024

Challenge in the instant intra Court appeal is to the order dated 04.10.2023 passed by the learned Single Judge, whereby the writ petition filed by the appellant was dismissed.

2. Before the learned Single Judge, the appellant had laid challenge to the selection made pursuant to the advertisement issued in the year 2007, wherein the select list was prepared on 08.01.2010 as regards the selection of teaching fellows against 45 posts of B.C. Category, earmarked to District Bathinda.

3. As per the facts on record, the appellant claimed to have secured 58.937 marks. It was further the case of the appellant that the four appointed candidates i.e., respondents No.5 to 8 had secured lesser marks than her but they had been given appointments wrongfully.

4. As has been noticed by the learned Single Judge in the impugned order, on behalf of the official respondents, an affidavit was filed on 10.05.2018 stating that the original reply filed on behalf of the said respondents reflected a different situation. An additional affidavit of District Education Officer (EE), Bathinda, was filed stating therein that the marks of the private respondents were upgraded contrary to the marks awarded as per the Select List dated 08.01.2010. The concerned Secretary had submitted his unconditional and unqualified apology stating that an inquiry had been conducted by the Director, Public Elementary Education, who submitted his report on 07.05.2018 to the Secretary, School Education, wherein Smt. Harkamaljit Kaur, the then Public Information Officer and Sh. Jasbir Singh, Dealing Assistant, had been found guilty of providing forged and fabricated record to the petitioner under the Right to Information Act, 2005 and the said officers/officials had been proceeded as per law by adopting

due procedure. It was further pointed out that the charge-sheet had been issued to the concerned persons for providing false information to the petitioner under the Right to Information Act and an FIR had also been directed to be lodged against aforesaid Jasbir Singh, Dealing Assistant. It was further pointed out that the provisional as well as final merit list were published in the leading newspaper(s) and the same was in the knowledge of the candidates, including the petitioner. It was further asserted that 45 Posts had been meant for the candidates belonging to Backward Classes Category, which were further divided into 50:50 ratio amongst male and female candidates. As per the terms and condition of the advertisement, 22 posts were meant for each category of male and female and 45th post was meant for candidate, whosoever was higher in the merit amongst the said category. The final Select List dated 15.04.2008, revealed that the last selected candidate i.e., Harpreet Kaur in BC (female) obtained 59.491 marks. Subsequent thereafter, one of the selected candidates, namely, Sharanjit Kaur did not submit her joining report within stipulated period and the next available candidate, Smt. Jatwinder Kaur, who had secured 59.394 marks, was offered appointment. The petitioner had secured 58.937 marks and she did not fall within the zone of selection. The names of respondents No.6 and 7 were existing in the final selection list published on 15.04.2008 and respondent No.5 had been issued appointment letter during the proceedings in COCP-1104-2009 as per her merit having secured 60.335 marks. As regards respondent No.6, it was stated that after consideration of her representation, she had been issued the appointment letter. Regarding

respondent No.8, it was pointed out that his name was not in the Select List on the male category, but he was offered appointment upon resignation of one Mandeep Singh, being the next available candidate for appointment. It was, thus, pointed out that the petitioner cannot equate herself with respondent No.8-Baljeet Singh (male category). It was, thus, pointed out that BC (Female) merit was 59.394 marks, whereas the petitioner had secured 58.937 marks and, therefore, she could not make the grade.

5. Learned counsel appearing for the appellant has vehemently argued that while passing the impugned order, the learned Single Judge, has not taken into consideration that the respondent-authorities were not able to point out the basis for awarding 60.325 marks to respondent No.4-Kiranjeet Kaur, who was initially awarded 58.325 marks. While referring to the information received by the appellant under the Right to Information Act (Annexure P-16 with the writ petition), it is argued that the experience certificate produced by respondent No.4, was not found to have been signed by the competent authority and later on the respondent-authorities had considered the said certificate for awarding her marks on the experience count, which is totally illegal. It is also argued that in respect of respondent No.6-Rajinder Kaur, the appellant had obtained the information under the Right to Information Act, which clearly indicates that she had originally been granted 58.325 marks and on revision, she was awarded 60.325 marks, but the basis thereof were not disclosed. It is, thus, argued that the said material aspects have totally been lost sight of by the learned Single Judge, while passing the impugned order.

6. We have heard learned counsel for the appellant and have also gone through the case file, including the impugned order.

7. The only question that arises for consideration by this Court is whether the impugned order passed by learned Single Judge, requires any interference.

8. The advertisement was issued in the year 2007 and the Select List was finally prepared in the year 2010. It has been found by the learned Single Judge on the basis of the affidavit filed by the concerned Secretary of the respondent-State that the officers/officials of the respondent-Department had furnished a forged and fabricated information to the appellant and the said officers/officials have been proceeded against departmentally, besides registration of an FIR against them. It was further observed by the learned Single Judge that though the appointment of respondent No.8 might not be in order keeping in view the recent judgment of the Hon'ble Supreme Court in the case of **Sudesh Kumar Goyal Vs. State of Haryana and Ors**, Civil Appeal No.10861 of 2013, decided on 21.09.2023, but keeping in view that the process of selection and appointment was conducted long back, it was not appropriate to disturb the said process at this stage.

9. It could not be disputed by the learned counsel for the appellant that the officials/officers of the respondent-Department had supplied the appellant forged and fabricated information under the Right to Information Act. Moreover in the affidavit so filed by the concerned Secretary, as indicated in the impugned order, it was properly explained as to how respondents No.5 to 8 had been granted

appointment. We find that the learned Single Judge, is perfectly justified in holding that, keeping in view the position explained by the respondents-authorities coupled with the fact that the appointment process had been carried out long back, there was no requirement to disturb the said appointment process, particularly when, if any post remained unfilled, the same would be available for being filled up by way of a fresh recruitment process.

10. In view of the above, we do not find any illegality or perversity in the order passed by the learned Single Judge, which may warrant interference by this Court, in the present appeal.

11. No other point has been urged.

12. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.

13. Pending application(s), if any, shall also stand disposed of.

[SUDHIR SINGH]
JUDGE

[ALOK JAIN]
JUDGE

29.04.2025

himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No