
(2016) 07 SHI CK 0114
In the High Court Of Himachal Pradesh
Case No : LPA No. 78 of 2011

Rajesh Kumar

APPELLANT

Vs

Himachal Pradesh Vidhan Sabha

RESPONDENT

Date of Decision : 11-07-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 4 HimLR 1971

Hon'ble Judges : Mr. Mansoor Ahmad Mir, C.J. and Mr. Tarlok Singh Chauhan, J.

Bench : Division Bench

Advocate : Nemo, for the Respondent No. 2; Mr. D. Dadwal, Advocate, for the Respondent No. 1; Mr. Praneet Gupta, Advocate, for the Appellant

Final Decision : Dismissed

Judgement

Mansoor Ahmad Mir, C.J. (Oral) - This Letters Patent Appeal is directed against the judgment, dated 2nd December, 2010, passed by the learned Single Judge of this Court in CWP No.2866 of 2010, titled Rajesh Kumar v. Himachal Pradesh Vidhan Sabha & Anr., whereby the writ petition filed by the petitioner (appellant herein) came to be dismissed, (for short, the impugned judgment).

2. Respondent No. 1 Vidhan Sabha invited applications for filling up one post of the driver in the Scheduled Caste category. Appellant/petitioner and respondent No.2, alongwith other candidates, appeared in the selection process. After combining the marks obtained in the driving test and the interview, the writ petitioner got 16 marks, whereas the private respondent/selectee scored 17 marks and came to be appointed.

3. Feeling aggrieved, the appellant/writ petitioner challenged the appointment of respondent No.2, namely, Chaman Raj, by the medium of writ petition. The writ Court, while dismissing the writ petition, has made discussion in paragraphs 1 and 3 of the impugned judgment. It is apt to reproduce paragraph 3 of the impugned judgment herein:

"3. Learned counsel for the petitioner submits that when petitioner's "A" grade in driving test, was treated equivalent to 8.5 marks, how could respondent's "A" grade in interview have been changed into 8.6 marks. Similarly, according to him, when respondent's "B" grade, in driving test was changed into 8.4 marks, how could the petitioner's "B" grade in interview have been changed into 7.5 marks. He says that while changing grading into marks, same marks were required to be awarded for "A" and "B" grades, in respect of both the tests. Even if the submission made by the petitioner be accepted, the net result would be almost the same.

Respondent No.2 is senior in age to the petitioner. Normal rule is that when the score of two persons is equal, senior in age is placed above the one who is junior in age."

4. We have examined the writ record and have gone through the impugned judgment, and are of the considered view that private respondent namely Chaman Raj was senior in age and rightly came to be appointed. Accordingly, we hold that the impugned judgment is well reasoned, needs no interference.

5. Having said so, there is no merit in the instant appeal and the same is dismissed.