
(2011) 02 P&H CK 0312
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 1517 of 2010 (O and M)

State of Haryana and Others	Vs	APPELLANT
Devender Kumar and Another		RESPONDENT

Date of Decision : 10-02-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2011) 02 P&H CK 0312

Hon'ble Judges : Tej Pratap Singh Mann, J; M.M.Kumar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.M.Kumar, J.—This order shall dispose of L.P.A. Nos. 1517 and 1839 of 2010 filed under Clause X of the Letters Patent against the judgment dated 14.5.2010 rendered by the learned Single Judge holding that the writ Petitioners-Respondents, who were duly selected and recommended for appointment by the Subordinate Services Selection Board, could not be denied their appointment letter in preference to appointment given to ad hoc appointees. The learned Single Judge has issued a categorical direction that the ad hoc appointees could not have a better or preferential right than the writ Petitioners-Respondents, who have been duly selected after considering the complete norms and on a fair process of selection in accordance with the mandate of Articles 14 and 16 of the Constitution. The learned Single Judge has also placed reliance on the directions issued by Hon'ble the Supreme Court on 3.9.1992 (P-6) while disposing of SLP (Civil) No. 18354/1991. The following directions have been issued by Hon'ble the Supreme Court:

(i) All the remaining selectees as recommended by Subordinate Services Selection Board for the various subjects above mentioned shall be appointed by the State on or before 31st December 1992;

(ii) These appointments may be either against the existing vacancies or in the

vacancies which are to occur hereafter till 31st December 1992;

(iii) The appointments shall be, if necessary either by displacement of ad-hoc appointees on the basis of last come first go or by creating supernumerary posts, if need be;

(iv) The seniority of these persons who have been recommended by Subordinate Services Selection Board shall be reckoned in the order in which they had been assigned ranks by the SSSB.

2. Once the aforesaid directions have been issued to the Appellant-State of Haryana then there is no escape from the conclusion that the persons like the writ Petitioners-Respondents have to be given appointment. It is pertinent to notice here that on the last date of hearing, we have asked the learned State counsel to explore the possibility of adjusting the writ Petitioners-Respondents. However, an affidavit has been filed stating that no post is available. The aforesaid stand will not be acceptable in view of the directions issued by Hon''ble the Supreme Court which goes to the extent of observing that in case the posts are not available then supernumerary posts have to be created. The directions issued by the learned Single Judge do not suffer from any illegal infirmity and the appeal does not merit admission. Accordingly, the appeal fails and the same is dismissed.

3. In view of the fact that we have dismissed the appeal on merits, we do not wish to pass any orders on the applications for condonation of delay.

4. A photocopy of this order be placed on the file of connected case.