

(2012) 07 P&H CK 0295

High Court Of Punjab And Haryana At Chandigarh

Case No: L.P.A. No. 2014 of 2011

Rajinder Kumar and Others

APPELLANT

Vs

Haryana Vidyut Prasaran Nigam
Ltd. and OthersRESPONDENT

Date of Decision: July 13, 2012**Citation:** (2013) LabIC 3**Hon'ble Judges:** Tejinder Singh Dhindsa, J; Rajive Bhalla, J**Bench:** Division Bench**Advocate:** R.P. Singh, for the Appellant; Mohnish Sharma and Narender Hooda, for the Respondent**Final Decision:** Dismissed

Judgement

Rajive Bhalla, J.

The appellants have filed this Letters Patent Appeal against judgment dated 23.9.2011, whereby their writ petition was dismissed. Counsel for the appellants submits that vide order dated 3.12.2008, passed in CWP No. 7382 of 1993, the respondents were directed to recast the list of selected candidates by placing reserved category candidates who had obtained marks more than the general category candidates, in the general category and in pursuance to such exercise, the petitioners should have been selected. The respondents have revised the merit list but the appellants have not been selected. It is further contended that as the appellants have obtained 66, 68 and 66 marks, respectively, whereas the last selected candidate has obtained 64 marks, the appellants' names should have been figured in the list of selected candidates. It is also contended that as 300 seats of ALMs are lying vacant, the appellants can be appointed without disturbing the merit or seniority of selected candidates. It is argued that mere omission in the answer-sheet to mention the category does not disentitle the appellants to be considered against the category to which they belong as all requisite documents are available with the respondents. The appellants were selected against backward class

posts and, therefore, should have been appointed in accordance with directions issued by this Court.

2. Counsel for the respondents submits that as the appellants have failed to point out any error in the impugned judgment much less establish an indefeasible right to appointment, their writ petition was rightly dismissed. It is argued that as the last candidate in the SC-B category obtained 69 marks and the appellants have obtained less marks, they have no right to seek appointment.

3. We have heard counsel for the parties, perused the impugned judgment and find no reason whether in fact or in law to interfere.

4. The appellants applied under the SC-B category but were selected and appointed under the SC-A category. Their selection and appointment was challenged in CWP No. 7382 of 1993 and was set aside on the ground that the selection was unfair as different selection committees were constituted and the respective merit of candidates was not considered. The appellants filed a SLP which was rendered infructuous as the posts were re-advertised. The Hon'ble Supreme Court took note of this fact and ordered that a final selection be made and till then the services of appointed candidates shall not be terminated. The appellants appeared in the new written test and participated in the selection process. The appellants were not selected. The selection was made subject matter of CWP No. 7382 of 1993 which was allowed on 3.12.2008 by directing the respondents to adjust reserved category candidates who had obtained higher marks than general category candidates against general category posts and prepare a fresh merit list. The respondents thereafter revised the merit list and published the same on 29.5.2009. The appellants were not selected, hence the writ petition. The writ petition has been dismissed on the ground that the petitioners obtained marks lower than the last candidate.

5. The learned single Judge has recorded a finding of fact that the last selected candidate in the appellants' category, obtained 69 marks, whereas the appellants have obtained 66, 68 and 66 marks, respectively. We find no reason to hold that there is any error of law whether in the selection list or in the impugned judgment that would require interference. We have also considered the appellants' request that as 300 posts of ALMs are still lying vacant, a direction may be issued to the respondents to adjust the appellants but express our inability to accept the request. The vacant posts have to be advertised and the appellants have no right against these post, from the earlier selection. In view of what has been stated hereinabove, we dismiss the Letters Patent Appeal but with no order as to costs.