

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2814 OF 2011
(Arising out of S.L.P.(C) No.18355 of 2004)

Balbir Singh

.....Appellant.

Versus

State of Haryana & Ors.

.....Respondents

JUDGMENT

ANIL R. DAVE, J.

1. Leave granted.
2. Being aggrieved by the Judgment and Order dated 18th July, 2003 delivered in CWP No.14328 of 2000 by the High Court of Punjab and Haryana at Chandigarh, the appellant has filed this appeal.

3. The grievance of the appellant before the High Court was that he was wrongly not appointed as an Art and Craft teacher. It was the case of the appellant that certain candidates belonging to backward class 'A' category had been given appointment against the posts of general category and had it not been done so, the appellant would have got the appointment.

4. It was also the case of the appellant that certain candidates, who had secured same marks as secured by the appellant, were given appointment whereas he was not appointed to the post in question.

5. After hearing the learned counsel and on perusal of record, the High Court rejected the petition by the Judgment dated 18th July, 2003.

6. In the impugned Judgment it has been observed that some backward class 'A' category candidates had secured more marks than the cut off marks determined for the general category candidates and, therefore, on the basis of their merit, they had been given appointment and, therefore, it could not be said that the respondent-Authorities had committed a mistake by giving appointment to backward class 'A'

category candidates against the posts of general category, especially when that was in accordance with the law.

7. Factually, the court found that no candidate of general class, who had secured less marks than the appellant, was appointed as an Art and Craft teacher and, therefore, the petition had been rejected.

8. The learned counsel appearing for the appellant made a similar grievance before this Court. Moreover, the learned counsel submitted that there was one vacancy as Shri Kartar Singh, who had been appointed as an Art and Craft teacher had submitted his resignation and, therefore, on the vacancy which had arisen on account of resignation of Shri Kartar Singh, the appellant should have been appointed as an Art and Craft teacher.

9. On behalf of the respondent-Authorities the learned counsel submitted that life of the waiting list was only one year and the waiting list lapsed on 27th April, 2000 and, therefore, though the appellant's name was in the waiting list, he could not have been appointed after 27th April, 2000.

10. We heard learned counsel and also perused the record which had been called for.

11. Upon hearing the learned counsel and on perusal of the record including the select list and the waiting list, we do not find any substance in the submissions made by the learned counsel appearing for the appellant.

12. It is true that some persons belonging to the backward class 'A' category had been appointed along with the candidates of general category because they had secured more marks than the cut off marks determined for selecting the candidates of the general category and, therefore, on their merit they were given appointment. In our opinion, the said action of the appointing authority was in consonance with the law laid down by this Court and, therefore, we do not find any illegality committed by the respondents in doing so, especially when those candidates belonging to the backward class 'A' category had secured even more marks than what the appellant had secured.

13. Upon perusal of the record, we find that the appellant had secured 62 marks whereas the last candidate of the general category who was selected had secured 71 marks. In view of the said fact, it can not be said that any candidate who had secured lesser marks than the appellant had been given appointment as an Art and Craft teacher so far as the general category is concerned.

14. The waiting list lapsed on 27th April, 2000 and, therefore, the said list could not have been operated after 27th April, 2000. In the circumstances, if any vacancy had arisen after 27th April, 2000, the waiting list could not have been operated for filling up of such a vacancy. In the circumstances, the submission with regard to giving appointment to the appellant against vacancy arising on account of resignation of Shri Kartar Singh cannot be taken into account. It is also pertinent to note that the submission with regard to resignation of Shri Kartar Singh had not been supported by any material on record and the said submission was made orally by the learned counsel appearing for the appellant at the time of hearing. However, the learned counsel appearing for the Authorities submitted that Shri Kartar Singh had resigned after 27th April, 2000.

15. For the aforestated reasons and for the reasons recorded by the High Court, we do not find any substance in the submissions made by the learned counsel appearing for the appellant and, in our opinion, the impugned order passed by the High Court is just and proper and, therefore, this appeal is dismissed with no order as to costs.

.....J.
(Dr. MUKUNDAKAM SHARMA)

.....J.
(ANIL R. DAVE)

New Delhi
March 31, 2011.

