

## IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3521 OF 2006

STATE OF PUNJAB &amp; ORS.

... APPELLANTS

VERSUS

HARCHARAN SINGH &amp; ORS.

...

RESPONDENTS

## O R D E R

The challenge in this appeal is to the order of the Division Bench passed on 7th November, 2005 in Civil Writ Petition No.19150 of

2002. The Division Bench of the High Court directed to issue the letters

of appointment pursuant to the recommendations made by the

Subordinate Services Selection Board (hereinafter referred to as "the

Board") within a period of two months. The order having not been

implemented the contempt petition was initiated against the appellant.

This Court on 7.8.2006 stayed the contempt proceedings.

Heard the parties.

The controversy involved in this appeal is with regard to the

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appointments to the posts of Lascars. The Board considered the case of

the respondents along with others. The result was declared on

26.12.2001 but no appointment could be made as the Model Code of

Conduct of Election Code became operative with effect from 26.12.2001.

In the meantime, one Kulbir Singh has assailed the Selection of the

respondents by filing Writ Petition being No.1809 of 2002. The High

Court granted stay order. Ultimately, the writ petition was disposed of

on 17.7.2002 as having become infructuous, recording the statement of

the counsel for the Government that no appointment would be made in

view of the policy decision of the Government on 13.5.2002.

The Government by an order dated 13.5.2002 issued by the

Chief Secretary to Government of Punjab addressed to all the Financial

Commissioner and Administrative Secretary to Government of Punjab

banning the recruitment. The policy states that a decision has been

taken to impose complete ban on recruitment to the posts lying vacant

and are likely to fall vacant due to the retirements or any other reasons.

It is further stated that all posts would be deemed to have been abolished

forthwith. The aforesaid policy decision has been taken keeping in view

the poor financial health of the State and the resultant cash crunch. The

aforesaid policy further clarifies that any requisition placed with the

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Punjab Public Service Commission, Subordinate Services Selection Board

of Departmental Selection Committee shall be immediately withdrawn

and where any process for recruitment has been initiated that is written

test conducted or interviews held, further process should be stopped

forthwith. It is further stated that the recommendations for recruitment

made by Public Service Commission and Subordinate Services Selection

Board may also be filed in all cases where they have not yet been acted

upon.

In the present case, admittedly the respondents, on their own

admission, in paragraph 5 of the writ petition that pursuant to the

recommendations the appointment letters were typed and ready to be

issued but the appointment letters could not be issued because of the stay order as noticed above. This would show that the recommendations of the Board have not been acted upon. The Division Bench of the High Court fell in error in granting the relief while referring to the judgment rendered by another Division Bench in the case of Raj Kumari vs. State of Punjab and others. In that case the Division Bench of the High Court took notice that the letter of appointment has been issued, therefore, the imposition of ban by the Government was not stalled the process of joining by such appointees. As already noticed that in the present case

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although the letters of appointment said to have been typed out and ready to issue, the same could not be issued because of the stay granted by the High Court. The High Court was, therefore, clearly in error in relying on the decision of Raj Kumari supra.

The respondents have also not assailed the policy decision of the Government as contained in the letter dated 10.5.2002. This is another difficulty. Till the policy decision of the Government holds the field the Court cannot issue any mandamus to give appointments to the

posts which have been stood abolished by the policy decision.

For the reasons aforesaid, we set aside the impugned order of

the Division Bench of the High Court. We are, however, of the opinion

that since the respondents have been selected by a duly constituted

Subordinate Services Selection Board and they could not be appointed

because of the ban imposed by the Government, in the fitness of things

and in the interest of justice and fair play if the respondents could  
be

accommodated to the posts of Lascars for which they have been duly

selected as and when the ban of the Government is relaxed or when the

posts are revived. We make it clear that in such event the case of  
the

respondents shall be considered first before calling for the fresh

candidates by way of advertisement or otherwise.

With the aforesaid observations the appeal is allowed.

.....J

( H.K. SEMA )

.....J.

( B. SUDERSHAN REDDY )

NEW DELHI,

FEBRUARY 07, 2007.

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ITEM NO.102

COURT NO.6

SECTION IV

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 3521 OF 2006

STATE OF PUNJAB & ORS.

Appellant (s)

VERSUS

HARCHARAN SINGH & ORS.

Respondent(s)

(With appln(s) for permission to place addl. documents on record and taking additional document on record with office report)

Date: 07/02/2007 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

For Appellant(s)

Mr. Sarup Singh, Sr.AAG,Pb.

Mr. R.K. Pandey, Adv.

Mr. Sanjay Jain,Adv.

For Respondent(s)

Mr. P.S. Patwalia, Sr.Adv.

Mr. Aman Preet Singh Rahi, Adv.

Ms. Ekta Nizzar, Adv.

Mr. Seeraj Bagga, Adv.

Mrs. Sureshta Bagga, Adv.

Mr. P.S. Patwalia, Sr. Adv.

Mr. Rajinder Mathur, Adv.

Mr. Tarun Mathur, Adv.

UPON hearing counsel the Court made the following

O R D E R

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Mr. Sarup Singh, learned senior Additional Advocate General of Punjab started his arguments at 2.20 p.m. and concluded at 2.40 p.m.

Thereafter, Mr. P.S. Patwalia, learned senior counsel started his arguments and concluded at 2.50 p.m. Hearing concluded.

Heard the parties.

With the observations made in the signed order the appeal is allowed.

(PAWAN KUMAR)

(RADHA R. BHATIA)

COURT MASTER

COURT MASTER

(signed order is placed on the file)