

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7422/1999@@
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Sandeep Singh ...Appellant

Vs.

State of Haryana & Anr. ...Respondents

WITH

C.A. No...../2000 @ SLP(C) No.8707/2000@@
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WITH WP(C)392&449/2000 @@
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Leave granted in SLP(C) No. 8707/2000.

These four appeals are directed against the judgment of Punjab and Haryana High Court in four different Writ Petitions. The appellants in each of the appeals had applied for the post in Haryana Civil Services (Executive Branch) for which post advertisement had been issued by the Public Service Commission. Though the number of posts tentatively had been indicated in the advertisement but it was stipulated that the vacancy position may change. The advertisement in question had been issued on 24.12.1992. The written examination was held in the year 1993, but for some contingencies the interviews could not be held, immediately thereafter. In fact the interview was held in January to March 1996. Between the date of the advertisement and till the date of holding the interview, several other posts in the services fell vacant. The Public Service Commission,

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however, ultimately gave the list of those number of vacancies for which the initial requisition had been made. The present appellants accordingly moved the High Court for issuance of a Mandamus that since vacancies had been available by the date of the interview, it would be meet and proper for the State Government to make appointments for the services in respect of those vacancies from the very sselection and the fresh examination can be held only in respect of the vacancies available subsequent thereto. The High Court, however, by the impugned judgment did not accept the contentions of the appellants relying upon the earlier decision of the said Court in the case of Virender Singh Hooda Vs. State of Haryana as well as some other decisions. The Writ Petition having been dismissed, the present appeals have been preferred.

It is contended on behalf of the appellants that not only the judgment of the High Court in Hooda's case has already been reversed by this Court in 1999 (3) SCC 696, but

also several circulars of the Government supports the contentions that the vacancies available up to the date of interview should be filled up from amongst the said competitive test rather than to have carried forward in respect of those vacancies for the next test. In respect of this contention the Circulars of the year 1957 and 1972 had been placed before us. Mr. Mahabir Singh, however,

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appearing for the State of Haryana vehemently urged that these circulars will have no application in cases where appointment is made through written competitive examination and therefore Public Service Commission would be entitled only to send the list of selected candidates in respect of vacancies for which the requisition had been made and advertisement was issued and not any further future vacancies. According to him, the judgment of this Court in Hooda did not consider the subsequent circular of the Government in the year of 1993. It is no doubt true that the reported decision of this Court in 1999 (3) SCC 696 does not refer to the aforesaid circular of the year 1993. But it was stated to us that the State of Haryana had filed a Review Application and appended the said circular of 1993 and the said Review Application stood rejected by this Court. That apart, even on first principle, it appeals to us to commend that the vacancies available in any particular service till the date of interview at least should be filled up from the very same examination unless there is any statutory embargo for the same. In the case in hand, no statutory embargo has been pointed out to us. In this view of the matter, the judgment of this Court in 1999 (3) SCC 696 should apply to the facts and circumstances. Be it stated that we have been shown the Government circular of the year 1993 in Hindi and going through the same, we are persuaded to hold that the circular says same thing what we have indicated earlier in

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this judgment. In the aforesaid premises, we set aside the impugned judgments of the Punjab and Haryana High Court and allow these appeals and Writ Petitions and direct that these 4 persons, who had appeared at the competitive test in the year 1993 pursuant to the advertisement dated 24.12.1992 should be considered for being appointed to the Haryana Civil Services (Executive Branch). We make it clear that if any other persons, who had appeared at the said examination and who had not approached the Court till today, will not be entitled to file any such application for getting this relief in question so far as the examination of the year 1993 is concerned. It is also made clear that the appellants will get the benefit of this order prospectively i.e. from the date of appointment. The Government may decide the matter within three months.

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.....J.
(G.B. PATTANAIK)

New Delhi,
November 09, 2000

.....J.
(B.N. AGRAWAL)