

ITEM No.102

Court No.11

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.8502 OF 2001

SANJAY GUPTA Appellant (s)

VERSUS

BOARD OF MGMT., VAISH TECH.COLLEGE & ORS. Respondent (s)

(With Appln.(s) for permission to place addl.documents on record and  
with Office Report )

Date : 18/12/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B.SINHA  
HON'BLE MR. JUSTICE ARUN KUMAR

For Appellant (s) Mr.Nidesh Gupta,Adv.  
Ms.S.Janani,Adv.

For Respondent (s) Ms.Abha R.Sharma,Adv.

Mr.Ajay Siwach,Adv.  
Mr.S.K.Sabharwal,Adv.

Mr.Aseem Mehrotra,Adv.  
Mr.Goutam Bhakat,Adv.

RR-Ex-Parte

UPON hearing counsel the Court made the following  
O R D E R

Mr..Nidesh Gupta, learned counsel for the appellant started arguments at 11.15 a.m. and concluded at 11.45 a.m. Thereafter, Mr.Goutam Bhakat, learned counsel for the Management Committee made his submissions for some time. The appeal is disposed of in terms of the signed order.

(Promila Nagpal) (N.K.Gandhi)  
COURT MASTER AR-cum-PS

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8502 OF 2001

SANJAY GUPTA ... APPELLANT (S)

VERSUS

BOARD OF MGMT.,VAISH TECH.COLLEGE & ORS. ... RESPONDENT (S)

O R D E R

The promotion of the writ petitioner, the appellant herein, to the post of Lecturer is in question in this appeal which arises out of the judgment and order dated March 20, 2001 passed by the High Court of Punjab & Haryana in Civil Writ Petition No.17453 of 1999. The Writ Petition filed by the private respondent was allowed by reason of the impugned judgment.

The question which had been raised before the High Court as also before us revolves round the nature of appointment of the writ petitioner-respondent. According to the appellant, the respondent herein, was appointed by adopting a back door method and without following the rules prescribed therefor. In any event, it has been contended that as the appointment of the writ petitioner-respondent was subject to the concurrence of the Board of Governors which having not been granted, the same could not have acted upon for any purpose whatsoever. It has further been contended that the appropriate authority had approved the appointment of the writ petitioner w.e.f. November 11, 1991 and the appellant having been appointed on regular

: 2 :

basis w.e.f. April 13, 1991, he must be held to be senior to the respondent.

From the order passed by the High Court it appears that several questions which have been posed before us had not been raised and the documents upon which the reliance is placed by the parties herein had not been produced before the High Court. Furthermore, Mr.Goutam Bhakat, learned counsel appearing for the Management Committee for the first respondent seeks to submit before this Court that in fact such approval had been granted by the Board of Governors but a copy of the said order has not been placed before us. Even the statement made in the counter-affidavit has also not been properly verified.

We are, therefore, of the opinion that the interests of justice will be sub-served if the judgment and order of the High Court is set aside and the matter is remitted to it for consideration of the matter afresh. The parties shall be at liberty to file further affidavit along with documents in support of their respective cases. The appeal is disposed of accordingly. No costs.

.....J.  
[S.B.SINHA]

.....J.  
[ARUN KUMAR]  
New Delhi;  
December 18, 2003.