

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

Petition(s) for Special Leave to Appeal (Civil) No(s).13176/2012

(From the judgement and order dated 09/01/2012 in LPA No.1903/2011 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

ABHISHEK GOYAL & ORS. Petitioner(s)

VERSUS

STATE OF HARYANA & ORS. Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned Judgment and with prayer for interim relief and office report)

Date: 04/05/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s) Mr.Prashanto Chandra Sen, Adv.
Mr. P.S.Sudheer, Adv.

For Respondent(s)

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

This petition is directed against the judgment of the Division Bench of the Punjab and Haryana High Court whereby the letters patent appeal filed by the petitioners was dismissed and the order passed by the learned Single Judge declining their prayer for issue of a mandamus to the respondents to appoint them to the Haryana Civil Services (Judicial Branch) was upheld.

In response to an advertisement issued on 23.7.2007 by the High Court for recruitment against 54 vacancies, the petitioners submitted their applications. They appeared in the preliminary examination held on 14.10.2007 and the main examination

2

held from 15.11.2007 to 17.11.2007. The result of the final examination was declared on 30.11.2007. In the merit list of the General Category candidates, the names of the petitioners were placed at Serial Nos. 42 to 45. The candidates who were placed above the petitioners in the merit list were appointed against the advertised posts.

Some of the candidates, who were appointed from the main list resigned. Thereupon, the petitioners made representation that they be appointed against the available vacancies. They also claimed that the State Government had sanctioned new posts and they are entitled to be considered for appointment against those posts.

Having failed to elicit favourable response from the administration of the High Court, the petitioners filed Writ Petition No. 20315 of 2008, which was dismissed by the learned Single Judge. He relied upon Rule 8(5) of Part D of the Punjab Civil Services (Judicial Branch) Rules, 1951, distinguished the judgment of this Court in Malik Mazhar Sultan v. UP Public Service Commission (2006) 9 SCC 507 and held that the petitioners do not have the right to be appointed against the vacancies which became available due to resignation of the newly appointed candidates and against the newly created posts.

The Division Bench of the High Court referred to the judgments of this Court in State of Punjab v. Raghbir Chand Sharma (2002) 1 SCC 113, Prem Singh v. Haryana State Electricity Board (1996) 4 SCC 319, Surinder Singh v. State of Punjab (1997) 8 SCC 488 and Rakhi Ray v. High Court of Delhi (2010) 2 SCC 637 and held that the petitioners do not have an indefeasible right to be appointed.

We have heard learned counsel for the petitioners and perused the record.

In our opinion, the view taken by the High Court on the entitlement of the petitioners to be appointed against the vacancies which became available due to creation of new posts or due to resignation of the persons appointed from the main list does not suffer from any legal infirmity. Rather, the same is consistent with the law laid down by this Court in The State of Haryana vs. Subash Chander Marwaha and others AIR 1973 SC 2216 and Union of India and others vs. E.G.Nambudiri AIR 1991 SC 1216.

The special leave petition is accordingly dismissed.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master