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SLP(C)No. 14628 OF 1998
ITEM No.202

Court No. 8

SECTION IVB
A/N MATTER

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.14628/1998

(From the judgement and order dated 18/05/1998 in CWP 12630/97
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

SURENDER SINGH & ORS

Petitioner (s)

VERSUS

STATE OF HARYANA & ORS

Respondent (s)

(With prayer for interim relief and office report)
(For Final Disposal)

With SLP(C)No.17637-17638/1998

Date : 09/02/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.P. MISRA
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s)
in SLP(C)14628/98

Mr. Rajesh Tyagi, Adv.
Dr. Aparna Bhardwaj, Adv. for
Mr. Praveen Jain,Adv.

inj SLP(C)17637-38/98

Mr. Neeraj Kumar Jain, Adv.
Mr. Aditya Kumar Chaudhary, Adv.
Mr. Bharat Singh, Adv.
Mr. A.P. Chhabra, Adv.
Mr. U.S. Prasad, Adv.

For Respondent (s)
in SLP(C)14628/98

Ms. Halida Khatun,Adv.
Mrs. K. Sarada Devi,Adv.

in SLP(C)17637-38/98

Mr. Prem Malhotra, Adv.

State

Mr. Mahabir Singh, Adv.

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

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Leave granted.
The appeal is dismissed in terms of the signed order.

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Sarita (V.P. Tyagi) @@
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COURT MASTER@@
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(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1139 OF 2001@@
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(Arising out of S.L.P.(C)No. 14628 of 1998)

Surinder Singh & Ors. .. Appellants

Versus

State of Haryana & Ors. .. Respondents

WITH C.A.Nos.1140-1141 @ S.L.P.(C)Nos.17637-17638/1998

O R D E R@@
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Leave granted.

Heard learned counsel for the parties.

The appellants have been selected in an examination held by the respondents. Respondent no.1 issued a memorandum sanctioning creation of various posts including the posts of Additional Ahlmads in the Subordinate Courts in Haryana to which we are concerned. These posts were to be filled up in two phases for the two years, i.e., 1996-97 and 1997-98. Respondent no.2 is the appointing authority. In pursuance to the same an advertisement was made in the local employment exchange inviting the applications for 10 posts of Additional Ahlmads for the year 1996-97. After evaluation in the selection process, on 28th November, 1996 first 10 candidates were selected against the 10 posts. However, respondent no.2 further filled the ten vacancies of the second phase for the year 1997-98 by further selecting from the same aforesaid merit list of 1996-97 in accordance with merits. The present appellants herein were at Serial Nos. 14, 16 and 13 respectively.

The ground on which the High Court quashed the appointment of the appellants was that the appointments were made in excess of the advertised vacancies. We have perused the judgment of the High Court and have heard learned counsel for the parties. Learned counsel for the appellants with some vehemence submitted that as the ten posts for the year 1997-98 were lying vacant which was of the second phase and if there was urgency if the same were filled out of the merit list of the selection made for the first phase there would be no illegality. The High Court fell into error in allowing the writ petition and quashing the selection made by the respondents for the second phase.

The facts of the present case are very clear as aforesaid. The posts for additional Ahalmad were created for the two separate years, i.e., 1996-97 and 1997-98 and were to be filled through two phases. The advertised posts admittedly were only for 10 such posts for the year 1996-97 of the first phase but selection was made not only for the advertised 10 posts but 20 posts which included ten of the second phase. We do not find any justifiable reason to uphold selection for the ten additional posts of the second phase. These ten additional posts selected is of a different year (1997-98), belong to the second phase, there was no advertisement for filling up these posts. How can such selection be upheld?

Learned counsel for the appellants refers to a note dated 22.5.1997 by the District Judge, where he refers for filling up these additional ten posts on the ground of urgency for which had a talk with the inspecting Judge concerned. The main reason for selecting these were that by holding another examination additional expenses would have to be incurred which could be curtailed if selection is made from the selection list of 1996-97. If such a reasoning is to prevail, then most of the subsequent selections could be made, out of any previous selection without advertising the same. How can expenses intervene or rob opportunities and right of prospecting applicants. When the advertisement specifies the number of posts, it is to make prospective applicant to consider to apply or not. If the posts are few the consideration would be different then when posts are larger. If number is larger there is always increase in number of applicants. So when the advertisement is only for 10 posts, the selection for 20 which constitutes of two different phases for two different years could not be justified. So we do not find any error in the judgment of the High Court which requires interference. Accordingly, the present appeals have no merit and are accordingly dismissed. Costs on the parties.

However we feel, in case there is going to be selection for the second phase (1997-98) the respondents will consider relaxation of the age of such selected candidates, appointed for the vacancies of the second phase viz. 1997-98.

.....J.
(A.P. Misra)

New Delhi.
February 9, 2001.

.....J.
(B.N. Agrawal)