

STATE OF HARYANA AND ORS.
v.
MAHABIR PRASAD SHARMA AND ORS.

FEBRUARY 7, 1994

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

Service Law: Selection and appointment—Candidates Wait-listed—Claim for appointment—High Court's direction that they be considered while making ad hoc appointments—Held: Enabling direction and hence valid.

The appellant-State requested the Subordinate Selection Committee for the recruitment of 11 Chief Inspectors from the reserved and general categories. Accordingly the Committee selected 11 candidates and placed four candidates in the waiting list. These four candidates approached the High Court.

The High Court took the view that no right to the post was created in favour of the candidates in the waiting list, but if the State, for administrative exigencies, filled up the post on *ad hoc* basis, it may appoint them in the order of merit. Against this order the State preferred the present appeal contending that the list had elapsed by efflux of time of one year and so the candidates in the waiting list had no right to be appointed.

Disposing of the appeals, this Court

HELD: 1.1. If the appellants do not make any appointments to the posts, the question of considering the claims of the waiting list candidates does not arise. In the event of the appellants' choosing to make appointments even on *ad hoc* basis, then certainly the candidates in the waiting list, though it lapsed, must be considered for appointment *de hors* the Rules which may not confer any right on them for future recruitment. It is only an enabling direction to make *ad-hoc* appointment pending regular recruitment. [699-C]

1.2. The respondents being the general candidates will be considered only against the quota reserved for general candidates. [699-D]

A CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 896-898 of 1994.

From the Judgment and Order dated 4.8.1992 of the Punjab & Haryana High Court in C.W.P. Nos. 17600/1991, 2601 & 3741 of 1992.

B Ms. Indu Malhotra for the Appellants.

Madhava Reddy and Prem Malhotra for the Respondents.

The following Order of the Court was delivered :

C Leave granted.

D 1. Heard learned counsel on both sides. These appeals arise out of the order dated August 4, 1992 of the Division Bench in Civil Writ Petition No. 17600 of 1991 etc. The admitted facts are that the appellant-State had requisitioned to the Sub-ordinate Selection Committee to recruit by direct recruitment 11 candidates to the post of Chief Inspectors. They have categorised the vacancies as under:—

6 posts for General Candidates

2 posts for Scheduled Caste

E

1 post for Backward Class

2 posts for Ex-serviceman

F While selecting 11 candidates the Committee also kept four more candidates in the waiting list. The respondents stand at Sl. Nos. 8 to 11. They admittedly belong to the general category.

G 2. The High Court while disposing of the matter held that keeping the candidates in the waiting list does not create any right in their favour in the posts, but if the appellant for administrative exigencies fill up the post on *ad hoc* basis then it is open to the appellants to appoint the candidates waiting in the list in the order of merit. The contention of Ms. Indu Malhotra, learned counsel for the State, is that the list had elapsed by efflux of time of one year and the candidates who were waiting in the list have no right to claim for appointment. The High Court is, therefore,
H not right in directing appointment of candidates in the waiting list in the

order of merit. It is true that the waiting list will be valid only for one year and on the expiry thereof the waiting list shall stand lapsed; but what the High Court appears to have directed was that in the event of any *ad hoc* appointments being made to any existing vacancies, *de hors* the rule, the respondents will be considered for *ad hoc* appointment since their names are in the select list, provided the Government chooses to make such appointment.

A

B

3. We do not find any illegality in the observations of the High Court. It is one of option to the appellants. If the appellants do not make any appointments to the posts, the question of considering the claims of the waiting list candidates does not arise. In the event of the appellants' choosing to make appointments on *ad hoc* basis, then certainly the candidates in the waiting list, though it lapsed, must be considered for appointment *de hors* the Rules which may not confer any right on them for future recruitment. It is only an enabling direction to make temporary appointment pending regular recruitment.

C

D

4. It is needless to mention that the respondents being the general candidates will be considered only against the quota reserved for general candidates.

The appeals are accordingly disposed of. No costs.

G.N.

Appeals disposed of.