

CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

O.A. No. 060/00090/2019

Chandigarh, this the 4th day of February, 2020



HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. ASI Mandeep Singh s/o Rajinder Singh, age 37 years, 1299/CHG, R/o H. NO. 497, Dashmesh Nagar, Kharar, Mohali, Punjab 140301 (Group-C).
2. ASI Kiranta w/o Sanjay Kumar, age 39 years, 1289/CHG, Police Station, Manimajra, Chandigarh 160101.
3. ASI Harnesk Singh s/o Rattan Singh, age 38 years, 1298/CHG, H. NO. 212, Vill. Mauli Jagran, Chandigarh 160102.

...Applicants

(BY: MR. ROHIT SETH, ADVOCATE)

Versus

1. Union Territory, Chandigarh Administration, Chandigarh through Administrator, U.T. Sector 6, Chandigarh-160009.
2. Director General of Police, U.T. Chandigarh Police Headquarters, Additional Deluxe Building, Sector 9-D, Chandigarh 160009.

... Respondents

(BY:MR. ARVIND MOUDGIL, ADVOCATE PROXY FOR
MR. G.S. CHINA, ADVOCATE)



O R D E R (Oral)

SANJEEV KAUSHIK, (Member) (J):

Mr. Rohit Seth, learned counsel appearing on behalf of applicants submits that this Court has already disposed of 3 other connected O.As namely; 1). O.A. NO. 60/1236/2017-

Satyawan vs. U.T. Chandigarh Administration and Another, 2). O.A. NO. 60/54/2019- **Prem Singh & Ors. vs U.T. Chandigarh Administration and Another**, 3) O.A.

NO. 60/1237/2017- **Asha Devi vs. U.T. Chandigarh Administration & Another**. He submits that this case was earlier clubbed with those cases, but could not be disposed of on the same date. Therefore, he requested that present O.A. may be disposed of in terms of the same observations and directions as has been done in the case of **Satyawan** (supra). Paras 15 and 16 of the same are reproduced as below.

“15. A conjunctive perusal of the pleadings makes it clear that selection for the post of ASI was initiated on 18.2.2007 when respondents issued advertisement. After final selection, respondents themselves cancelled entire selection and decided to hold fresh selection from the stage of written examination, which was held on 5.6.2011. Meaning thereby from 2007 to 2011 selection process was not finalized. Annexures A-4 shows that they offered appointment for the first time to some of the selected candidates on 25.9.2012. Admittedly, out of two candidates selected in the category of ESM, candidate at serial no.2 namely Sh. Sanjiv Kumar did not join and ultimately his candidature was cancelled on 6.8.2013. Though original application filed by the applicant was dismissed by this Court but ultimately after intervention of Hon’ble High Court in judicial review sought by the applicant by filing CWP No.2546/2015, respondents came



forward and offered appointment to him on 6.1.2016. Subsequently, writ petition was disposed of as having been rendered infructuous with liberty to him to raise plea for grant of notional appointment from the date he became entitled before authority, who was to pass order. Claim of the applicant has been turned down by impugned order. Though the respondents tried to persuade us that benefit for ante-dated appointment based on judgment in the case of Sunaina Sharma (supra) cannot be granted, but we are convinced that facts in that case are entirely different from the present case. In this case, vacancy which was offered in the year 2012, after litigation, is the same which was available with the department for offering appointment to other candidate on 25.9.2013 and no new vacancy has been created subsequently. Vacancy is same as already notified in the year 2007. Since selected candidate did not join and his candidature was cancelled in the year 2013, which has been accepted by the respondents while offering appointment to applicant. Thus plea of the respondents that applicant cannot be given notional appointment from the date when other candidates were offered appointment cannot be accepted because there is no fault on the part of the applicant rather it was incumbent upon the respondents at that time that if vacancy fell vacant then they ought to have offered appointment to next candidate in waiting list i.e. applicant and he would have joined at that time i.e. in the year 2013 itself. Thus, for the fault of the respondents, applicant cannot be penalized. Our view is also fortified by judgment of the High Court in the case of Satinder Kumar (supra), wherein while deciding identical issue Hon'ble High Court had directed respondents to grant deemed date of appointment to petitioner therein from the date as has been given to selected persons of the same selection.

16. In the wake of above narrated facts, we are left with no option but to quash impugned orders and accordingly, the same are quashed and set aside. Respondents are directed to grant applicants consequential seniority from the date when others were offered appointment/from the date of selection with due regard to their inter-se merit position in the said selection, and they be given notional benefit till they actually joined."

2. Considering the prayer made by the learned counsel for applicants and no objection from other side, this O.A. is



also disposed of in same terms as in the O.A. NO. 60/1226/2017- Satyawan (supra) decided on 28.11.2019.

(Sanjeev Kaushik)
Member (J)

Place: Chandigarh
Dated: 04 .02.2020
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