

State of Haryana & Ors.

Vs

Ajay Walia

(K. Ramaswamy, D.P. Wadhwa JJ)

07.07.1997

ORDER

1. Leave granted.
2. We have heard learned counsel on both sides.
3. This appeal by special leave arises from the Judgment of the Punjab & Haryana High Court, made on October 15, 2996 in cwp No.12474/95.
4. The admitted facts are that in June 1980, there was a requisition in the Irrigation Department for filling up of four vacancies of Sub-Divisional Clerks. The Subordinate Service Selection Board advertised the posts. Instead of selecting four candidate, it prepared a list of 28 candidates in November 1982 and recommended them for appointment. Eight candidates including the respondent were recommended for appointment in Hathnikund procurement Circle. The Superintendent Engineer wrote a letter to Selection Board on November 3, 1982 stating that procurement Circle had not requisitioned for recruitment of any candidate and that he could not make any appointment; accordingly, he returned the request for appointment.
5. It would appear that the respondent has been making application to various authorities from time to time but the same failed to bear any fruit. As a consequence, writ petition came to be filed in October 1996 seeking issuance of writ of mandamus for appointment to the post of Sub-Divisional Clerk. The High Court allowed the writ petition and directed the State to appoint the appellant forthwith on the post of S.D.C. in any Department of the State of Haryana. The High Court also awarders costs quantified at Rs.10,000/-. Thus, this appeal by special leave challenging the order of the High Court.
6. The facts reveal that requisition was made for recruitment only four candidates. The Service Selection Board had no power and jurisdiction to select as many as 28 candidates and to recommend their names to various Departments for appointment. In the circumstances, when the Superintending Engineer Hathnikund circle had not requisitioned appointment of 8 candidates including the respondent, he rightly not acceded to and returned the list to the Board stating that he could not make any appointment as the ad hoc Sub-Divisional Clerks already working had obtained stay from the High Court against their termination. In these circumstances, the direction asking the Superintending Engineer to appoint the respondent, issued by the High Court is obviously illegal. Moreover, the selection was made in 1982 and writ petition came to be filled in 1995, i.e., after an inordinate delay. Representations repeatedly given to various authorities do not furnish her fresh course of action to file writ petition. The High Court is wholly unjustified to have entertained and

allowed the writ petition.

7. The appeal is accordingly allowed. The Judgment of the High Court is set aside. The writ petition stands dismissed. No costs.