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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****LPA No.432 of 2015 (O&M)**
Date of decision: May 24, 2016

State of Punjab and another

.....Appellants

Versus

Rakesh Kumar and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE A.B. CHAUDHARI**Present:** Mr. Rajesh Bhardwaj, Addl. AG Punjab.Mr. M.S. Cheema, Advocate
for the respondents.

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

SURYA KANT, J. (Oral)

State of Punjab has preferred this Letters Patent Appeal against the order dated 19.03.2014, whereby learned Single Judge has directed to appoint respondent No.1 as Science Master on regular basis w.e.f. the date, the candidate lower in merit in the Freedom Fighter category, was appointed, though with notional benefits.

The Education Department issued advertisement on 27.10.2006 inviting applications to fill up 2614 posts of Masters/Mistresses including 500 posts of Science Masters/Mistresses. Five posts of Science Masters/Mistresses were reserved for wards of Freedom Fighters.

Respondent No.1 is admittedly grandson (*dohda*) of a Freedom Fighter. In the overall merit, he secured 61.58 marks. The case of respondent No.1 was that though he was higher in merit than respondent No.2 who got 60.3125 marks and yet another candidate whose marks were 60.258 but no appointment was offered to him and candidates lower in merit in that reserved category have been appointed.

The above stated fact, having been found as correct, the learned Single Judge has issued directions for appointment of respondent No.1 w.e.f. the date, the candidates lower in merit were appointed, but with notional benefits.

It may also be noticed that against 5 posts reserved for wards of Freedom Fighters, only 4 candidates including respondent No.2 were appointed. One post was lying vacant. The directions to appoint respondent No.1 has been issued by the learned Single Judge against that vacant post only.

The appellant authorities rejected the claim of respondent No.1 on the ground that he did not turn up on the date of counselling. On the other hand, respondent No.1 claimed that he appeared for counselling but was not allowed to mark his presence.

We have heard learned counsel for the parties and gone through the record.

Since the learned Single Judge has believed the version of respondent No.1 who is admittedly higher in merit than some of the appointees in the reserved category of wards of Freedom Fighters, we

are satisfied that no case to interference with the order passed by the learned Single Judge is made out, more so, when the appellants have not been burdened with any financial liability as the appointment has been directed to be offered on notional basis only. On factual issue, the stand taken by respondent No.1 appears to be more plausible as soon after the result was declared, he has been running from pillar to post for seeking appointment.

Dismissed.

**[SURYA KANT]
JUDGE**

**[A.B. CHAUDHARI]
JUDGE**

May 24, 2016

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