

SUNEETA AGGARWAL
v.
STATE OF HARYANA AND ORS.

FEBRUARY 11, 2000

[V.N. KHARE AND N. SANTOSH HEDGE, JJ.]

Service Law—Recruitment—Post of Lecturer—Order of Vice Chancellor declining to accord approval to appellant's selection—Re-advertisement of the post—Appellant appeared before Selection Committee without any protest—Whether appellant could challenge earlier order of Vice Chancellor—Held, no—She was estopped by her conduct—Indian Evidence Act, 1872—sec. 114.

The appellant applied for selection to a post of Hindi lecturer in a government aided institution. The Selection Committee recommended the name of the appellant. However, this was not approved by the Vice Chancellor, who directed the said post to be re-advertised. The post was again advertised. The appellant applied again and appeared before the Selection Committee without any kind of protest and on the same day she filed a writ petition against the order of the Vice-Chancellor declining to accord his approval and obtained an ad-interim order that the result of the selection process should not be declared. Subsequently, the writ petition filed by the appellant was dismissed. This appeal had been filed against the judgment of the High Court.

Dismissing the appeal, this Court

HELD : 1.1. In the instant case the appellant had disintitiled herself to seek relief in the writ petition filed by her before the High Court. The appellant did not challenge the order of the Vice Chancellor declining to accord approval to her selection and, on the contrary, she applied afresh to the said post in response to re-advertisement of the post without any kind of protest. She also appeared before Selection Committee constituted consequent upon re-advertisement of the post and that too without any kind of protest. On the same day she filed a writ petition against the order of the Vice Chancellor declining to accord his approval and obtained ad-interim order. In the writ petition she also did not disclose that she applied for the post consequent upon second advertisement. The appellant

A having appeared before the Selection Committee without any protest and having taken a chance, she was estopped by her conduct from challenging the earlier order of the Vice Chancellor. The High Court was justified in refusing to accord any discretionary relief in favour of the appellant. The writ petition was rightly dismissed by the High Court. [785-E-H]

B CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1097 of 2000.

From the Judgment and Order dated 31.3.97 of the Punjab & Haryana High Court in C.W.P. No. 448 of 1997.

C Ujagar Singh, Sonal Jain, Aditya Kr. Choudhary, Ugra Shankar Prasad, Girish Agnihotri, Mrs. Shurestha Bagga, Naresh Bakshi, Ms. Naresh Bakshi, Mahabir Singh, Abdus Sattar, Ms. Halida Khatun, Neeraj Bagga, Manish Mohan, Neeraj Kr. Jain, Ms. Shikha Roy, Sanjeev K. Pabbi, Prem Malhotra, Girish Agnihotri, Ms. Tanuj Sharma, Ajay Siwach, Mr. **D** Seeraj Bagga and Ms. Shika Ray Pabbi for the appearing parties.

The Judgment of the Court was delivered by

C.A. No. 1097/2000 @ S.L.P. (C) No. 16248/97

E Leave granted.

There is a government aided institution known as 'Hindu Girls College, in the town of 'Jagadhari', Haryana. The management of the institution advertised a post of Hindi Lecturer. In response to the said advertisement, the appellant and other persons applied for selection to the said post. The Selection Committee on 15th July, 1996 interviewed the candidates. The nominee of the Vice Chancellor and the Director of High Education approved the name of the appellant to be placed at Sr. No. 2 whereas, one Kiran Bala was placed at Sr. No. 1. However, the Selection Committee recommended the name of the appellant for the said post. This **F** was not approved by the Vice Chancellor who, by order dated 5.8.96, **G** directed the said post to be re-advertised.

Accordingly, on 13th November 1996, the post was again advertised and in response thereto, the appellant again applied for being considered **H** for the post of Hindi Lecturer. The date of interview was fixed as 10th

January, 1997. On the said date the appellant appeared before the Selection Committee without any kind of protest and simultaneously filed a writ petition challenging the order of the Vice Chancellor dated 5.8.96 whereby the Vice Chancellor disapproved the recommendation of the Selection Committee and issued a direction for a fresh advertisement. On 10.1.97, an interim order was passed in the writ petition filed by the appellant to the effect that the selection process may go on, but the result of the same be not declared. However, this interim order was not brought to the notice of the Vice Chancellor. The Vice Chancellor, being ignorant of the said order, approved the name of Mrs. Kamlesh Kumari Bhatia whose name was recommended by the subsequent Selection Committee for appointment to the post of Hindi Lecturer. Consequent upon the said order of approval, Mrs. Kamlesh Kumari Bhatia joined the said post. Subsequently, when the interim order was brought to the notice of the Vice Chancellor, he withdrew the order of approval. Mrs. Kamlesh Kumari Bhatia challenged the said withdrawal order passed by the Vice Chancellor by means of a separate writ petition. The writ petitions filed by Suneeta Aggarwal (appellant) and Mrs. Kamlesh Kumari Bhatia were heard together. The writ petition filed by the appellant was dismissed whereas the writ petition filed by Mrs. Kamlesh Kumari Bhatia was allowed.

We have heard learned counsel for the parties. Narration of aforesaid facts would show that the appellant had disintitiled herself to seek relief in the writ petition filed by her before the High Court. The appellant did not challenge the order of the Vice Chancellor declining to accord approval to her selection and, on the contrary, she applied afresh to the said post in response to re-advertisement of the post without any kind of protest. Not only did she apply for the post, but also she appeared before the Selection Committee constituted consequent upon re-advertisement of the post and that too without any kind of protest, and on the same day she filed a writ petition against the order of the Vice Chancellor declining to accord his approval and obtained an ad-interim order. In the writ petition she also did not disclose that she has applied for the post consequent upon second advertisement. The appellant having appeared before the Selection Committee without any protest and having taken a chance, we are of the view that the appellant is estopped by her conduct from challenging the earlier order of the Vice Chancellor. The High Court was justified in refusing to accord any discretionary relief in favour of the appellant. The writ petition was rightly dismissed.

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A Accordingly, the appeal fails and is dismissed. No order as to costs.

S.L.P. (C) No. 9541/98

On the application of the learned counsel for the petitioner, the special leave petition is dismissed as withdrawn.

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R.A.

Appeal/Petition dismissed.