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SUKHPAL SINGH AND ORS.

v.

PUNJAB STATE AGRICULTURAL MARKETING BOARD
AND ORS.

B

SEPTEMBER 7, 1994

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

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Service Law : Selection—Appointments—Review and termination of appointments—Selection on appointment of candidates subsequent to cancellation of earlier appointments—Challenge to termination orders—Candidates selected subsequently not impleaded as parties—Held in the circumstances interference with cancellation order is not called for—Directions by Supreme Court.

D

The Market Committee of Shri Hargobindpur Sahib Gurdaspur made certain appointments. The General Body of the Market Committee approved the selection and the selected candidate also joined their duties. Subsequently the Board reviewed the selection and terminated their appointments. Subsequent to the cancellation of the appointments, on a regular advertisement candidates were selected, appointments were made and posts were filled up. The appellants challenged the termination order but the High Court dismissed their petition. The appellants preferred appeal in this Court.

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Dismissing the appeal, this Court

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HELD : 1. In the circumstances of the case, interference with the order cancelling the appointments of the appellants is not called for. Subsequent to the cancellation of the appointment of the appellants, on regular advertisement candidates were selected, appointments were made and posts have been filled up. They are neither before this Court nor are they sought to be impleaded in the High Court. Therefore, any order that

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may be passed by this Court would have adverse effect of unsettling their appointment without they being impleaded and without any opportunity of hearing given to them. [206-D-C]

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2. However, for any future vacancies the appellants may also apply for and their cases may also be considered along with others according to

rules. In cases by that date, they become barred by age, the necessary relaxation in respect of age may be given. Any payment made for the period during with the appellants were in service from the date of the appointment till the date of termination may not be recovered. [206-E-F]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4042 of 1989.

From the Judgment and Order dated 23.11.87 of the Punjab & Haryana High Court in C.W.P. No. 388 of 1987.

K. Madhava Reddy, H.S. Munjral, S.S. Rana and Mrs. B. Rana for the Appellants.

Muni Lal Verma Seeraj Bagga for Mrs. S. Bagga for the Respondents.

The following Order of the Court was delivered :

This appeal by special leave arises from the Judgment of the Division Bench of the Punjab & Haryana High Court in C.W.P. No. 388/1987 which was dismissed on November 23, 1987. On September 14, 1985 the Market Committee of Shri Hargobindpur Sahib in Gurdaspur District had published in the daily new paper 'Ajit' calling applications to fill the post of Auction Recorder, Electrician, Helper, Chowkidar and Clerk etc. It would appear that on September 28, 1985 a sub-committee was constituted for selection of the candidates and on the same day selection was done. The General Body of the Market Committee approved the selection and letters of appointment were issued and the selected candidates had joined on the same day on regular basis. On January 17, 1987 the Board reviewed the appointments and terminated their appointments The appellant Challenged the termination orders. The High Court, as stated earlier, dismissed the Writ Petition on diverse grounds. Thus, this appeal by special leave.

Shri K. Madhava Reddy, the learned senior counsel for the appellants strenuously contended that the Committee was duly constituted to select the candidates; advertisement in the local newspaper was made inviting the appellation; the appellants along with others had applied for and duly selected to the existing regular posts as on that date and were duly appointed. Though there was ban on *ad hoc* or temporary appointments, there was no ban on the appointment to the regular posts which

A came to be issued on October 18, 1985 and that therefore, the appointment of the appellants cannot be said to be irregular or illegal. He also contended that the cancellation was made by the Board without notice to the appellants and that therefore, it is violative of not only the regulations, but also the principles of natural justice. In the view we are taking, it is not necessary to consider the questions raised by the appellants or the grounds on which the High Court affirmed the order of cancellation of appointments made by the Board.

Subsequent to the cancellation of the appointment of the appellants, on a regular advertisement candidates were selected, appointments were made and posts have been filled up. Those candidates have been functioning from May 27, 1987 onwards. They are not before this Court nor are they sought to be impleaded in the High Court. Therefore, any order that may be passed by this Court would have adverse effect of unsettling their appointment without they being impleaded and without any opportunity of hearing given to them. Under those circumstances, we decline to interfere with the order of the High Court and the order of the Market Committee cancelling the appointments of the appellants. However, in any future vacancies were to arise or any existing for which any regular recruitment is to be made, the appellants may also apply for the their cases may also be considered along with others according to rules. In case by that date, they become barred by age, the necessary relaxation in respect of age may be given and they may also considered along with qualified candidates for selection to regular appointments. Any payments made for the period during which the appellants were in service from the date of the appointment till the date of termination and they worked in that period, there may not be any order for recovery of the same.

With these observation, the appeal is dismissed. No costs.

T.N.A.

Appeal dismissed.