



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 14th OF JANUARY, 2026

WRIT APPEAL No. 2989 of 2025

HARSH RAIDAS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Devendra Kumar Tripathi - Advocate for the appellant.

Shri Anubhav Jain - Government Advocate for the respondents/State.

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ORDER

Per. Hon'ble Shri Justice Vinay Saraf

By taking exception to the order dated 16.07.2025 passed by learned Single Judge in Writ Petition No.11330/2022, the appellant has preferred the instant intra-court appeal seeking direction to the respondents to issue appointment order on the post of Process Server (*Tamilkarta*).

2 . Heard Shri Devendra Kumar Tripathi, learned counsel for the appellant on the question of admission.

3 . The short facts of the case are that the appellant appeared in the examination conducted by Madhya Pradesh State Legal Services Authority in furtherance of advertisement dated 04.01.2019; whereby the online applications were invited from the aspirants for 57 posts of Peon and 74 posts of Process Server (*Tamilkarta*). The appellant submitted his application



under the category of SC-Open and in the select list he was placed at Serial No.1 in the waiting list. Later on, the appellant was called for verification of documents on the ground that one candidate of SC-Ex Servicemen Category did not join but no appointment letter was issued to the appellant, therefore, he preferred the Writ Petition on 11.08.2020, which was decided by the impugned order; whereby the learned Single Judge declined to extend the relief to the appellant and dismissed the petition.

4. Learned counsel for the appellant submits that as per Rule 4(3) of M.P. Ex- Servicemen (Reservation of vacancies in Civil Services and posts, Class III, Class IV) Rules 1985, if any candidate of Ex-Servicemen category is not available, the appointing authority can appoint a candidate of open category after obtaining the non-availability certificate from the Employment Exchange. He further submits that when one position could not be filled up in category of SC-Ex Servicemen, the appellant ought to have been appointed on that position as no candidate of SC-Ex Servicemen was available and the appellant was at Serial No.1 in the category of SC-Open. He prays for setting aside the order passed by learned Single Judge and issuance of directions to the respondents to appoint the appellant.

5. The arguments advanced by the learned counsel for appellant are considered and perused the documents available on record.

6. It is not in dispute that the appellant participated in the examination conducted for the post of Process Server in State Legal Services Authority and he applied for SC-Open Category and stood at Serial No.1 in the waiting list. It is also an admitted position on record that he was called for



verification of documents but no appointment letter was issued. One successful candidate of SC-Ex Servicemen Category did not join the services and therefore, there was one post lying vacant and the appellant was called for documents verification against the said post, however, later on the competent authority realized that appellant being a candidate of SC-Open Category cannot be appointed against the vacant post reserved for SC-Ex Servicemen.

7. Rule 4(3) of the Rules, 1985 prohibits the appointing authority to appoint any general candidate on the vacant post reserved for Ex-Servicemen until and unless the said authority has obtained a non-availability certificate from the Employment Exchange or Director General, Resettlement as the case may be and approval of the State Government. The authority is not under obligation to initiate the proceedings for obtaining the non-availability certificate and approval from the State Government to appoint a candidate other than category of Ex-Servicemen against the reserved post. If the authority has not decided to appoint any candidate of SC-Open Category against the post available for SC-Ex Servicemen candidate, the authority cannot be held at fault as the Rule 4(3) of Rules, 1985 prohibits the authority and the procedure has been prescribed if the authority wants to appoint the general candidate against the post available for Ex-Servicemen.

8. There is no force in the arguments of learned counsel for the appellant that the competent authority ought to have been obtained the non-availability certificate and permission of the State Government to appoint the appellant on the vacant post. It is settled position of law that placing the



name in the waiting list or calling for the verification of documents, do not provide any vested right to be appointed.

9. In view of the above, the action taken by the respondents seems to be just and proper and the learned Single Judge has not committed any error in dismissing the petition preferred by the appellant. We do not find any reason to interfere in the order passed by the learned Single Judge. We are in full agreement with the findings recorded by the learned Single Judge.

10. Consequently, the admission is declined and appeal is dismissed in *limine*. No order as to costs.

(SANJEEV SACHDEVA)
CHIEF JUSTICE

(VINAY SARAF)
JUDGE

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