

individual status, yet under the amended law, the income of the minor child is to be considered as his income. Following the reasons recorded therein, with which we are in agreement, we hold that the share income relating to the three minor sons of the assessee, who were admitted to the benefits of partnership in the firm in which the assessee was a partner as a Karta of the H.U.F., has to be assessed in the hands of the assessee in his individual capacity under section 64(1) (iii) of the Act.

(5) For the reasons recorded above, we answer the referred question in favour of the revenue, in the negative, with no order as to costs.

P.C.G.

*Before V. Ramaswami, C.J. and G. R. Majithia, J.*

SASHI BALA,—Appellant.

*versus*

PUNJABI UNIVERSITY, PATIALA AND OTHERS,—Respondents.

*Letters Patent Appeal No. 1426 of 1988*

July 20, 1989

*Letters Patent, 1919—Clause X—Advertisement for filling two posts of lecturers—Appellant placed at No. 2 for appointment by Selection Committee—Selection approved by Syndicate—Second post of Lecturer converted into the post of Reader—Second post of Lecturer—Whether deemed to be filled—Right of the appellant on the second post.*

*Held, that the appellant's selection was approved by the Syndicate. The respondent cannot deny appointment to the appellant. The denial amounts to abuse of process of law and has to be remedied. The learned Single Judge is in error in declining relief to the appellant on the ground that she has no right to the post. There is absolutely no justification to deny the appointment once her selection has been approved by the Syndicate. Respondent Nos. 1 and 2 failed to bring any material on record to justify their action of refusing appointment to her. Mere selection does not confer a right on the selectee for an offer of appointment. But if the selection has been approved by the highest body, the Syndicate, then it can only be refused for strong compelling reasons which have not been pointed out. It appears none exists. The second post of the lecturer could not have been filled by appointment of the third respondent.*

(Para 4)

Sashi Bala v. Punjabi University, Patiala and others  
(G. R. Majithia, J.)

*Letters Patent Appeal under clause X of the Letters Patent of the High Court against the judgment of Hon'ble Mr. Justice M. R. Agnihotri, dated 21st November, 1988, dismissing the C.W.P. No. 793 of 1987 of the Appellant.*

Abha Rathore, Advocate, for the appellant.

R. L. Sharma, Advocate, for respondents Nos. 1 and 2.

H. L. Sibal, Sr. Advocate with R. S. Rai, Advocate, for respondent No. 3.

### JUDGEMENT

*G. R. Majithia, J.*

(1) This Letters Patent Appeal is directed against the order dated November 21, 1988, of the learned Single Judge dismissing the writ petition filed by the appellant for issuance of a mandate to respondents No. 1 & 2 to appoint her as Lecturer in the Public Administration Department.

(2) An advertisement dated October 31, 1985, appeared in the Daily Tribune inviting applications for the posts of Lecturers in various departments including the Public Administration of respondent No. 1. We are only concerned with the post of a Lecturer in the Public Administration Department. On February 20, 1986, another advertisement appeared in the Daily Tribune inviting applications for various posts of Lecturers in different departments including for a post in Public Administration. In November, 1986, third advertisement appeared in the Daily Tribune inviting applications for the posts of Readers and Professors in various departments including that of Public Administration. The appellant applied for the posts of Lecturers in Public Administration advertised on October 31, 1985 and February 20, 1986 respectively. Selection was held simultaneously for the two posts of Lecturers in Public Administration. Shri Baldev Singh was selected but appellant was placed at No. 2. She contends that she will be deemed to have been selected against the second post of Lecturer which was advertised on February 20, 1986, and not filled in. She ought to have been issued the appointment letter against the second post of Lecturer. Respondent No. 3 applied for the post of Reader pursuant to an advertisement dated November 10, 1986. He was selected as a Lecturer not as a Reader. The post of Reader was

converted into a post of Lecturer and respondent No. 3 was appointed against the said post.

(3) The respondent-University admitted that Shri Baldev Singh was placed at No. 1 by the Selection Committee but the appellant was placed only on the waiting list and it conferred no right on her. Through the advertisement dated November 10, 1986, applications were invited for the post of Reader and the appellant did not apply for that post since she was not eligible. It justified the selection of respondent No. 3 as Lecturer pursuant to his application for the post of Reader.

(4) The University did not deny that the second post of Lecturer in Arabic, Public Administration, advertised on February 20, 1986, was not filled in. It did not controvert the plea of the appellant that the Syndicate in its meeting held on November 7, 1987 approved the recommendation of the Selection Committee selecting Baldev Singh and the appellant as Lecturers against the posts advertised,—vide advertisements dated October 31, 1985 and February 20, 1986, respectively. The selection of the appellant had been approved by the Syndicate. The University could not refuse the appointment to the appellant once the selection has been approved by the Syndicate. Respondent No. 2 could not refuse to comply with the decision of the Syndicate. Respondent No. 3 was not appointed against the second post of Lecturer in Public Administration. He was duly appointed against the post of a Reader which was converted into the post of a Lecturer. The second post of Lecturer has still not been filled in. As observed earlier, the appellant's selection was approved by the Syndicate. The respondent cannot deny appointment to the appellant. The denial amount to abuse of process of law and has to be remedied. The learned Single Judge is in error in declining relief to the appellant on the ground that she has no right to the post. There is absolutely no justification to deny the appointment once her selection has been approved by the Syndicate. Respondents No. 1 and 2 failed to bring any material on record to justify their action of refusing appointment to her. Mere selection does not confer a right on the selectee for an offer of appointment. But if the selection has been approved by the highest body—the Syndicate, then it can only be refused for strong compelling reasons which have not been pointed out. It appears none exists. The second post of the Lecturer could not have been filled by appointment of the third respondent and the entire approach of the learned Single Judge proceeds

Gurpreet Kaur v. Union of India and others (M. M. Punchhi, J.):

on wrong premises. The whole procedure and the attitude shown by the first and second respondents are obnoxious calling for serious strictures. But the nobility of the office we hold prevents us.

(5) For the aforesaid reasons, the judgment dated November 21, 1988, of the learned Single Judge is set aside and respondents No. 1 and 2 are directed to appoint the appellant against the second post of Lecturer in Public Administration for which she was duly selected by the Selection Committee and her selection was duly approved by the Syndicate. However, it is made clear that selection and appointment of respondent No. 3 is not disturbed. The appeal is allowed accordingly but with no order as to costs.

P.C.G.

Before M. M. Punchhi and A. L. Bahri, JJ.

GURPREET KAUR, *Petitioner.*

*versus*

UNION OF INDIA AND OTHERS, *Respondents.*

Civil Writ Petition No. 5497 of 1989

October 3, 1989.

*Constitution of India, 1950—Arts. 226/227—Petitioner allotted flat by Housing Board—15 per cent deposit made after the expiry of stipulated date—Deposit accepted by the Board—Subsequent instalments also accepted—No amount refunded by the Board—Cancellation of plot on the ground of late deposit—Whether permissible.*

*Held*, that the Board was, in case the allotment is cancelled, under obligation to refund forthwith the amount as provided in Clause 19 of the agreement. Concededly, no refund was sent to the petitioner. Rather on the contrary, from time to time, the instalments were being kept accepted. In this situation, it is too late in the day for the Housing Board to say that there was a deemed cancellation of allotment. We are rather of the view that the allotment in favour of the petitioner cannot be held to have deemingly been cancelled. (Para 3)

*Writ petition under Articles 226/227 of the Constitution of India praying that the records of the case be sent forward after perusal of the same, the following reliefs may be given:—*

- (i) *issue a writ of mandamus directing the respondents to hand over the possession of the dwelling unit No. 3058 of*