



LPA NO. 1217-2025 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

LPA NO. 1217-2025 (O&M)

Date of decision:-19.08.2025

HARYANA STAFF SELECTION COMMISSION APPELLANT

Vs

DEEPAK AND ORS

.....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present : Mr. Sanjeev Kaushik, Addl. Advocate General, Haryana.
for the appellant.

Mr. Rajat Mor, Advocate,
for the respondents.

ROHIT KAPOOR, J.

1. The present letters patent appeal has been filed against the order dated 10.02.2025 passed by the learned Single Judge in CWP-20048-2024, whereby the writ petition filed by the respondents-petitioners has been allowed with the direction that the appellant shall consider priority of disabled ex-servicemen and their family members at the final stage.
2. The facts involved in the matter are not in dispute. The State of Haryana vide notification dated 05.05.2022 framed a policy for recruitment to Group C and D posts through Common Eligibility Test, 2022 (for short 'CET'). The detailed procedure for recruitment to Group C and D posts was specified in the said notification. Certain amendments were carried out vide notification dated 31.05.2022, however the same are not relevant for considering the issue involved. It is categorically mentioned in the policy dated 05.05.2022, that for Group C and D, the aspirants would be required to



qualify CET. A candidate can apply for the post, if he has qualified CET. The relevant provisions of the notification dated 05.05.2022, are extracted as under:-

“No. 42/119/2019-5GS-I.— Whereas fair and reasonable process of selection to posts subject to the norm of equality of opportunity under Article 16(1) of the Constitution of India is a constitutional requirement.

Whereas with a view to secure and sustain the confidence of the public in general and to ensure credible and trustworthy recruitments to Government posts, the Government of Haryana proposes to introduce a Common Eligibility Test to simplify and standardize the recruitment process for Government employment to all direct recruitment to Group C posts including the posts of Police service, Prisons and Home Guards etc. but excluding the teaching posts and all direct recruitment to Group D posts other than the posts where minimum educational qualification is below Matriculation in the Haryana Group D Employees (Recruitment and Conditions of Service) Act, 2018 (5 of 2018). This test shall be held once every year or as decided by the Government from time to time. In supersession of Haryana Government, General Administration Department (in General Services-I Branch), Notification No. 42/119/2019-5GS-I, dated the 10th September 2021, the State Government is pleased to declare the following policy for recruitment through the Common Eligibility Test, namely

1. SHORT TITLE AND APPLICABILITY.

(i) This policy may be called the Policy for Recruitment to Group C and D posts through Common Eligibility Test, 2022.

(ii) It shall apply to direct recruitment to Group C posts including the posts of Police service, Pris-



ons and Home Guards etc. excluding the teaching posts and Group D posts other than those posts where minimum educational qualification is below Matriculation in the Haryana Group D Employees (Recruitment and Conditions of Service) Act, 2018 (5 of 2018), in the departments of State Government or any Board, Corporation, statutory body or any other agency owned and controlled by the State Government other than any University established by or under a State Act.

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5. **REGISTRATION FOR CET:**

- (i) *All applicants shall register on a designated portal i.e. onetimereg.haryana.gov.in by such last date to be published by an advertisement issued by the Commission, providing all particulars relating to the identity of the applicant and uploading all the required documents relating to any claim including claim for reservation, educational qualifications, experience and socio-economic criteria weightage and such other details as the Government or the Commission may seek, from time to time, for the purpose of recruitment.*
- (ii) *The Parivar Pehchan Number enables the recruiting agency to verify the applicant's claims in respect of residence, educational and other qualifications, caste and experience certificate, family income/assets, status of parents (if any parent is deceased the verification of death certificate is involved), marital status of female applicant, separation certificate of legally separated women, disability certificate, sports gradation certificate, denotified tribe/Vimukt Jati certificate, certificate of ex-serviceman, dependent of ex-servicemen certificate,*



dependent of freedom fighter, FIR copy etc.

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7. CET EXAMINATION AND MARKS FOR GROUP C POSTS:

- (i) An applicant who intends to apply for direct recruitment to any applicable Group C post shall have to appear in CET for Group C posts.*
- (ii) The Commission shall issue an advertisement for Group C posts based on requisition received from the Departments of State Government or any Board, Corporation, statutory body or any other agency owned and controlled by the State Government stating its intent to conduct the CET.*
- (iii) An applicant who does not possess the CET minimum educational qualification specified for CET before the last date of registration for CET on the designated portal but is due to appear for the examination to attain the appropriate educational qualification during the year in which the CET is conducted, shall also be eligible to appear in the CET:*

Provided that the name of such applicant shall not be considered for skill and/or written examination for the advertised posts until he acquires the minimum essential educational qualification and/or experience, if any, specified for that post by the last date for attaining such minimum qualification specified in the advertisement issued by the Commission for the conduct of skill and/or written examination.

- (iv) An applicant who has not attained the minimum age or who has crossed the maximum age limit prescribed by Government for entry into Government service for Group C post as on the last date fixed in*



the advertisement published by the Commission for registration for CET shall be ineligible to appear in CET. The relaxation in upper age limit to the applicants of Scheduled Castes, Backward Classes and other categories and of experience shall be admissible as per rules or instructions issued by Government from time to time.

- (v) *Every applicant, who appears in the CET, shall be given marks based on his performance in the CET. An applicant of general category shall have to obtain minimum 50% marks in CET (excluding the socioeconomic criteria weightage) to be eligible for skill and/or written examination of second stage, however, an applicant of reserved category (both vertical and horizontal) shall receive concession @ 10%, for the purpose of eligibility for CET, i.e. the minimum cut-off for such candidates shall be 40% (excluding the socioeconomic criteria weightage). An applicant of any category who obtains less than the minimum marks in CET, shall have to re-appear in CET in the next or any subsequent attempt.*
- (vi) *The CET marks of applicants shall be declared on the website of the Commission.*
- (vii) *An applicant shall be eligible to reappear in CET whenever conducted on a subsequent date and the CET marks shall be revised if the applicant improves it in the next or any subsequent attempts.*
- (viii) *There shall be no restriction on the number of attempts to appear in the written examination component of the CET. If an applicant who has already qualified the CET for Group C post will have the option to appear again in CET to improve his CET marks in the next or any subsequent occasion, if he so desires.*
- (ix) *The CET marks obtained by an applicant shall be*



valid for a period of three years from the date of declaration of the result of CET. Provided that if an applicant improves his CET marks in the next or any subsequent attempt, then the fresh period of validity of three years will commence from the date of declaration of result of such attempt.

For clarification on validity of CET marks, see Illustration No. 1 at Annexure-C of this policy.

- (x) For calculation of CET score of an applicant, the marks obtained in the CET shall be added to the score, if any, on account of socio-economic criteria weightage to arrive at the CET score of the applicant. The calculation methodology for arriving at the CET score has been illustrated at Illustration No. 2 at Annexure-C.*
- (xi) CET marks and the marks of socio-economic criteria weightage, if any, shall be declared on the website of the Commission in respect of the applicants who have achieved the specified cut-off as per sub-clause (v) above.*

9. PROCESS FOR RECRUITMENT OF GROUP C POSTS:

- (i) After publication of CET Score in accordance with sub-clause (xi) of clause 7 above, the posts available for recruitment shall be advertised by the Commission along-with the syllabus, procedure/manner of conducting skill and/or written examination of the advertised posts and last date for attaining minimum educational qualifications and/or experience. On the advertisement being issued, the Commission shall invite applications electronically of the eligible candidates based on the merit list of CET Score to know whether the candidate is willing to appear for skill and/or written examination for that post.*



Provided that the maximum number of eligible candidates for the skill and/or written examination who shall be eligible to appear in such examination based on number of posts advertised by the Commission as under:-

- (a) candidates equal to five times the number of posts advertised if the number is less than 30;*
- (b) 150 candidates if the number is between 30 and 40;*
- (c) candidates equal to four times the number of posts advertised if the number is greater than 40;*

The eligible candidates shall apply electronically on the website of the Commission using their Registration Number. The last date for submission of application shall also be mentioned in the advertisement by the Commission.”

3. The appellant conducted CET test on 05.11.2022 & 06.11.2022. The name of the respondent-petitioners figured in the list of qualified candidates. Advertisement No. 3/2023 was issued on 07.03.2023, advertising various Group C and D posts as per the attached appendix-B. The candidates who had qualified CET 2022, were informed through the advertisement that those who fulfil the qualifications for the posts and are desirous of appearing in the written examination/skill test, should apply when the link for inviting online applications open. The Scheme of marks in respect of selection to the posts was that out of a total of 100 marks, 97.5 % were for the written examination and 2.5 % for Socio-Economic Criteria and experience. The respondent-petitioners applied for various posts including under Group No. 56 & 57, under the reserved category, being Dependents of Ex-servicemen



(*in short* 'DESM'), as per Government of Haryana's instructions issued vide notification dated 09.03.2022.

4. Socio-Economic criteria was declared unconstitutional by a Division Bench of this Court. In compliance with the directions issued therein, the appellant revised the result of CET on 25.06.2024 and issued fresh advertisement No. 4/2024 dated 28.06.2024. As per clause 6 of the said advertisement, the process of recruitment for Group C posts was specified, wherein it was inter-alia mentioned that the Commission shall hold offline examination/or skill test from eligible candidates based on the merit list of CET marks. Clause 7 of the advertisement, pertains to reservation and clause 7.7 thereof specifically deals with the reservation for Ex-servicemen. It is clearly stated that the benefit of reservation to ex-servicemen and their family members, will be as per Government instructions bearing Nos. 12/15/2019-04GS-II dated 09.03.2022 and 13.04.2022, or as amended from time to time upto the date of advertisement. The relevant provisions of Clause 7.7 of the advertisement are extracted as under:-

(A) *An ex-serviceman who himself/herself or his/her family member has already secured employment in civil service on regular basis in any Department/ Board/Corporation/University etc. under the State Government with availing the benefit of reservation-*

(i) he/she himself/herself shall not be entitled to avail the benefit of reservation in civil service for any subsequent appointment in any Department/ Board/ Corporation/ University etc. under the State Government. However, the benefit of age relaxation for securing an-



other employment in a higher pay scale or post shall remain continue; and

(ii) his/her family member shall also not be entitled to avail the benefit of reservation against the posts reserved for ex-servicemen.

- (B) (i) *An ex-serviceman who himself/herself has already secured employment in civil service on regular basis in any Department/ Board/ Corporation/ University etc. under the State Government without availing the benefit of reservation in such case he/she himself/herself or one of his/her family members (son, daughter or spouse) will be entitled to avail the benefit of reservation;*
- (ii) *where an ex-serviceman who himself/herself is eligible to avail the benefit of reservation under these instructions but he/she does not want reemployment in civil service in such case one of his/her family members (son, daughter or spouse) will be entitled to avail the benefit of reservation.*
- (C) *If an ex-serviceman applies for various vacancies before joining any civil employment, he/she can avail the benefit of reservation as ex-serviceman for any one of the subsequent employments. However, to avail of this benefit, an ex-serviceman as soon as he/she joins any civil employment, should give self-declaration/ undertaking to the concerned employer about the date- wise details of application for various vacancies for which he/she had applied for before joining the initial civil employment. Further, this benefit would be admissible only in respect of vacancies which are filled by direct recruitment and wherever reservation is applicable to the ex-service-*



men.

- (D) *The family members of martyr military personnel shall be entitled to exercise an option either-*
- (i) *to avail the benefit of reservation upto two family members; or*
 - (ii) *to avail the benefit of compassionate appointment to one of the family members under the Ex-gratia Policy namely Compassionate Appointment to family member of Martyr Armed Forces Personnel Policy notified by Government from time to time.*
- (E) *The priority list for recruiting agency for preparation of final list of selection/appointment of ex-servicemen or their family members against the posts reserved for ex-servicemen shall be as under:-*
- (i) *disabled ex-servicemen, the post(s) for which they are physically fit;*
 - (ii) *failing (i), family member of disabled ex-servicemen;*
 - (iii) *failing (ii), other ex-servicemen who are eligible to get the benefit of reservation under these instructions;*
 - (iv) *failing (iii), family member of other ex-servicemen who are eligible to get the benefit of reservation under these instructions.*
- (F) *Disabled ex-serviceman means a person who has been released from military service due to disability attributable or aggravated due to military service. An ex-serviceman shall not be treated disabled one who has been released from military service not on account of his/her disability but has been released in the normal course after the completion of his/her term or retired from military service voluntarily.*



(G) Both the reservations are horizontal, therefore, a disabled ex-serviceman who is selected against the post reserved for ex-serviceman will not be counted against the post reserved for PwD.

(H) In all circumstances the benefit of reservation against the posts reserved for Ex-servicemen shall be admissible at the time of final selection list only and not at the time of preliminary test, main test or interview.”

5. Perusal of clause 7.7 of the advertisement would show that the same is a reproduction of the instructions dated 09.03.2022 issued by the Government of Haryana. In pursuance to the advertisement dated 28.06.2024, the Appellant scheduled the written examination for various posts of Group 56 & 57 for 10.08.2024 & 11.08.2024, which were postponed for 17.08.2024 & 18.08.2024. Public notice dated 12.08.2024, was published by the Appellant, whereby details of candidates short-listed for written examination of various categories for Group No. 56 & 57 was given and the cut-off for various categories was also mentioned. The respondent-petitioners filed the writ petition for quashing of the said notice dated 12.08.2024 on the ground that the Appellant-Commission had illegally granted reservation and applied the clause pertaining to preference list, even prior to the stage of written examination, in violation of the policy of the Government of Haryana notified on 09.03.2022, as well as against the conditions of the advertisement itself. It is the grievance of the respondent-petitioners that the said illegal action has resulted in an anomalous situation where they have been thrown out of the competition, even without allowing them to participate in the further selection process, despite the fact that they have secured more marks



than the last short-listed candidate. It is apposite to take note of the fact that the respondents-petitioners were permitted to participate in the selection process provisionally vide order dated 14.08.2024, albeit on the condition that the interim order will not create any equitable right in their favour at the time of final disposal of the petition. As noticed in the order of the learned Single Judge, the respondent-petitioners participated in the written test conducted pursuant to the advertisement dated 28.06.2024 and the final result was declared on 17.10.2024.

6. The learned Single Judge has allowed the writ petition filed by the respondent-petitioners vide order dated 10.02.2025, in terms of the findings contained in paragraphs 13 to 16 of the order, which are extracted as under:-

“13. Clauses 2(E) and (H) of the instructions are relevant for the adjudication of the instant petitions.

14. As per Sub-Clause (E), there would be priority to disabled ex serviceman and their family members. Other ex-serviceman would be considered if disabled ex-serviceman and their family members are not available. Sub-Clause (H) makes it clear that benefit of reservation shall be admissible at the time of final selection list and not at the time of preliminary test, main test or interview. The State Government in the instructions has used word “only” to make it clear that benefit would be admissible at the stage of final selection list and not at the time of preliminary test, main test or interview.

15. In the case in hand, the respondent conducted CET which was preliminary test. It was followed by written test known as Stage-II or main test. The respondent, at the stage of shortlisting of candidates from CET qualified, made priority list operational. The respondent, at that stage, thought it appropriate to give priority to disabled ex-serviceman and their family members. The petitioners have secured more marks than disabled exserviceman or their



family members in CET. They are higher in merit and as per procedure, the respondent has to select four times of advertised posts amongst the CET qualified. The respondent can shortlist candidates category wise, however, priority cannot be given within the category unless and until permitted by the advertisement or statutory provisions. The advertisement as well as instructions dated 09.03.2022 categorically provide that priority would be given to disabled ex-serviceman and their family members at the time of final selection list. Priority cannot be given at the time of main test. The respondent acting contrary to Government instructions and advertisement has extended priority to disabled ex-servicemen at the stage of main test. It is settled proposition of law that no party can travel beyond the terms and conditions of advertisement. If it is permitted, there would be chaos and uncertainty. Selection would be at the caprice and whims of the recruitment agency. It would be contrary to rule of law which cannot be permissible. The intention of the respondent in preparing priority list at the stage of written test may be just and fair, however, intention cannot substitute terms and conditions of the advertisement/instructions which are categoric and quite clear.

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*16. In the wake of above discussions and findings, this Court is of the considered opinion that **CWP No.20048-2024** deserves to be allowed and accordingly allowed. The respondent shall consider priority of disabled ex-servicemen and their family members at the final stage.”*

7. Sh. Sanjeev Kaushik, learned Additional Advocate General Haryana, representing the appellant, has argued that the interpretation given by the learned Single Judge goes against the very object of providing preference in reservation to the disabled ex-servicemen and their wards. He has drawn the attention of the Court to Clause (E) of the instructions dated 09.03.2022 (Annexure P-6), to contend that the sole objective of issuing such



instructions, is to give benefit to the disabled ex-servicemen candidates and it is only in the absence of the available disabled ESM/their dependents, that the benefit of the ESM reservation will to the dependents of ESM (DESM). It is further contended that the said preference is required to be applied while short-listing of candidates, so that there are sufficient ex-servicemen available at the final stage, in order to give benefit of reservation. It is argued that in case the priority list is not made operational at the stage of short-listing, there are possibilities that primarily dependents of ex-servicemen are short-listed, as there are chances of them securing higher marks in CET than the disabled ex-servicemen. In such scenario, the whole object of rehabilitation of disabled ex-servicemen or providing support to their dependents will be frustrated and the provision for reservation extended to disabled ESMs and their dependents, will be rendered nugatory. In support of his contention, he has relied upon the judgment of Hon'ble Supreme Court of India in '*Dilwan Singh Vs. State of Haryana*', (1996) 8 SCC 369 , as well as the judgment of a Division Bench of this Court in '*Rajesh Kumar Tahlan Vs. State of Haryana and others*', 2000 SCC OnLine, P&H, 1407.

8. Per contra, learned counsel appearing on behalf of the respondents has argued that the State of Haryana has issued instructions dated 09.03.2022 (Annexure P-6), which are part of the aforesaid advertisement. He contends that the instructions as well as the advertisement clearly provide that the priority in reservation under the ESM category is to be applied only at the time of final selection and not at the time of preliminary test, main test or interview. Despite the explicit conditions



contained in the advertisement, the appellant applied the priority list at the time of short-listing of candidates at the initial stage, which is clearly impermissible.

9. We have heard the learned counsel for the parties and have gone through the material available on record, with their able assistance.

10. The short issue that requires consideration is that at what stage the preference list, as specified under the instructions dated 09.04.2022, is to be applied?

11. A bare perusal of Clause 2 (E) of the said instructions, makes it abundantly clear that the priority list, as contained under sub-clause (i) to (iv), is for the purposes of preparation of '**final list**' of selection/appointment of ex-servicemen or their family members against the posts reserved for ex-servicemen. A reading of Clause (H) would further make it clear that the benefit of reservation against the posts reserved for ex-servicemen have been made admissible at the time of final selection list only and not at the time of preliminary test, main test or interview. A harmonious reading of the aforesaid clauses, would thus show that the intent is that such reservation and priority list cannot be made operational at the stage of short-listing of candidates. No other interpretation can be assigned once there is no ambiguity in language of the clauses in question. It is also to be considered that the appellant is an independent constitutional body, who has to discharge its functions as a recruiting agency, strictly in accordance with the instructions notified by the State Government and cannot follow a different course, even if the intent is for any laudable purpose. It is open to the State Government to amend its



instructions governing the preferential order in which the benefit of reservation is to be accorded, within the various categories of ex-servicemen and their dependents. However, till such amendment is carried out, the Appellant-Commission would be bound to strictly follow the instructions and the conditions of the advertisement. The judgments in '**Dilwan Singh' and 'Rajesh Kumar Tahlan's'**, *case(s) supra*, are clearly distinguishable and would not come to the aid of the appellant, as the provisions of the relevant clauses of the instructions dated 09.03.2022, were never under consideration in the said cases. Learned counsel for the appellant has failed to show that the interpretation of clauses identical/similar to clauses E & H, was the subject matter in either of these cases.

12. Law is well settled that the advertisement and its conditions are the *magna carta* for the purpose of selection and the recruitment agency cannot deviate therefrom. It was inter alia observed by the Hon'ble Supreme Court of India in '**Sureshkumar Lalitkumar Patel & Ors V. State of Gujarat & Ors'**, **2023 SCC Online SC 167** that "*An advertisement, made pursuant to a notification, binds the parties. It has got all the trappings of a statutory prescription, unless it becomes contrary to either a rule or an Act. A change, if any, can only be brought forth by way of an amendment and nothing else*".

13. Subsequently, a Constitution Bench of the Supreme Court of India in the case of '**Tej Parkash Pathak Vs. Rajasthan High Court'**, **(2025) 2 SCC 1** was, *inter-alia* pleased to hold that:

"23. The doctrine proscribing change of rules midway through the game, or after the game is played, is predicated on the rule against



arbitrariness enshrined in Article 14 of the Constitution. Article 16 is only an instance of the application of the concept of equality enshrined in Article 14. In other words Article 14 is the genus while Article 16 is a species. Article 16 gives effect to the concept of equality in all matters relating to public employment. These two articles strike at arbitrariness in State action and ensure fairness and equality of treatment”.

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65.2 Eligibility criteria for being placed in the select list, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness;

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65.5 Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the rules are non-existent, or silent, administrative instructions may fill in the gap.”

14. The State Government has taken a conscious decision vide instructions dated 09.03.2022, with respect to the stage at which the reservation and preference list are to be made operative, which was also an essential condition



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of the advertisement. It is thus apparent that the action of the Appellant in shortlisting the candidates on the basis of the preferential list, even before the written test, is in the teeth of the instructions and conditions of the advertisement.

15. We are therefore in agreement with the findings of the learned Single Judge that the action of the appellant was contrary to the Government instructions and advertisement and do not find any illegality or perversity in the impugned order dated 10.02.2025. Accordingly, the present letters patent appeal is dismissed.

16. Pending application(s), if any, shall stand disposed of accordingly.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

19.08.2025
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No