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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 21.07.2026

% LPA 542/2026 & CM APPL. 45660/2026

RAGHAV KUMAR JHA

.....Appellant

Through: Mr. Aditya Yadav and Mr. Dheeraj
Kumar, Mr. Ayush Yadav, Advs.

versus

PAWANS HANS LIMITED

.....Respondent

Through: Mr. Puneet Taneja, Sr. Adv. with Mr.
Anil Kumar, Mr. Manmohan Singh
Narula, Mr. Amit Yadav, Advs.
Ms. Arunima Dwivedi, CGSC with
Ms. Swati J, Ms. Himanshi Singh,
Ms. Monalisha, Advs. for UOI

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

DEVENDRA KUMAR UPADHYAYA, C.J. (ORAL)**CM APPL No. 45661/2026**

1. For the reasons stated in the application, the delay of 31 days in filing the LPA is condoned. The application stands disposed of.

LPA 542/2026

1. Heard learned counsel for the parties.



2. The instant Letters Patent Appeal seeks to challenge the judgment and order dated 30.04.2026, passed by the learned Single Judge in W.P.(C) 4974/2026 whereby the writ petition filed by the appellant has been dismissed.
3. The process of recruitment to the post of Assistant (Finance & Accounts) was initiated by the respondent No.1 by advertisement issued for the said purpose in January, 2025. The criterion for selection was based on marks obtained by the eligible candidates in written/ skill aptitude test. The appellant being eligible for selection applied pursuant to the advertisement and as per the record available he obtained 44 out of 50 marks in written/ skill aptitude test.
4. Along with the appellant, another candidate had also secured 44 out of 50 marks in the written/ skill aptitude test and accordingly, applying the seniority in age criteria, the tie between the appellant and the selected candidate was resolved and the candidate with the roll No. 202506043 who was senior in age, was declared selected whereas the appellant with roll No. 202506038 was kept in the panel.
5. Admittedly, the selected candidate with the aforementioned roll No. pursuant to his appointment letter, joined on the post in question, however, after working for some period, he resigned from the post on 05.12.2025 as a result of which the vacancy in the post in question arose. The appellant is aggrieved by the adoption of the criteria of seniority in age for resolving the tie and also on account of refusal by respondent No.1 to his appointment against the vacancy which occurred on the resignation of the selected candidate concerned on 05.12.2025.



6. The appellant had earlier instituted W.P.(C) No. 466/2026 with the prayer to direct the respondent No.1 to appoint him to the post in question by considering him against the vacancy which had arisen on account of the resignation of the selected candidate on 05.12.2025. The said writ petition was finally disposed of by a learned Single Judge of this Court *vide* order dated 14.01.2026 directing the respondent No.1 to decide the representation of the appellant dated 15.12.2025 and communicate the same to the appellant.

7. In compliance of the said order dated 14.01.2026, passed by this Court in the earlier writ petition filed by the appellant, the representation of the appellant was decided by respondent No.1 *vide* order/ communication dated 16.02.2026 declining the prayer of his appointment against the vacancy which had occurred on account of resignation of the selected candidate.

8. The reason given in the communication dated 16.02.2026 for not acceding to the prayer of the appellant was that a candidate placed on a panel or wait list does not acquire any vested right for appointment and further that recruitment process stood concluded once the selected candidate had joined. The other reason communicated in the communication dated 16.02.2026 was that a panel or wait list is operative only in a contingency where a selected candidate fails to join during the same recruitment process and further that a panel cannot be used as a perpetual source to fill vacancies arising after the completion of the recruitment cycle or during a new recruitment process.

9. Challenging the said order/ communication dated 16.02.2026, the



appellant instituted the proceedings of W.P.(C) No. 4974/2026 which has been dismissed by the learned Single Judge *vide* impugned order dated 30.04.2026.

10. Having heard the learned counsel for the parties, we do not find ourselves in agreement with the submissions made by learned counsel for the appellant.

11. Admittedly, on the basis of selection held pursuant to the advertisement the selected candidate had joined and after working on the post in question for some time, resigned on 05.12.2025. The vacancy, thus, arose on account of resignation of the selected candidate who had joined and worked on the post.

12. We are of the unambiguous opinion that once pursuant to a recruitment process appointment is made, no appointment from the select panel or waitlist can be made on a vacancy which occurs on account of resignation of the selected incumbent of the post.

13. The very purpose of preparation of a waiting list or inclusion of any candidate in the panel other than a selected candidate is to meet an exigency where for one reason or the other, pursuant to the offer of appointment, the selected candidate fails to join and then appointment is offered to the wait listed candidate.

14. In the instant case, the selected candidate had joined and, therefore, after his joining on the post in question which was advertised in January, 2025, if any vacancy had occurred on account of the resignation of the selected incumbent of the post, the same has to be advertised again for being filled in by way of regular recruitment process, otherwise, if appointment



against such a vacancy is offered to the appellant, the same would be in clear violation of Article 16 of the Constitution of India inasmuch, as, the same will deprive other eligible candidates to participate in the selection.

15. The learned Single Judge has elaborately dealt with the aforesaid issue and has concluded that the vacancy that arose after resignation was not because of non-joining but it occurred on account of resignation of the selected incumbent. We are in complete agreement with such finding recorded by the learned Single Judge.

16. As regards the other argument advanced on behalf of the appellant to the effect that in absence of any prescription in the advertisement prior to selection process regarding the criteria to be adopted in case of tie between two candidates, it was not open to the respondent No. 1 to apply the criteria of seniority in age, we may only observe that the said submission also does not bear any merit.

17. Impeaching the process adopted for breaking the tie between the appellant and the selected candidate, it has been argued before us and was also submitted before the learned Single Judge as well, that adoption of criteria of seniority in age for breaking the tie amounts to changing the rule of the game after the game has started. However, the said submission is not tenable for the reason that for breaking the tie, no prescription was available and the selection committee faced with a situation of tie in marks obtained by two candidates adopted the criteria of seniority in age which cannot be said to be arbitrary or unfair considering the fact that there is no allegation on behalf of the appellant about any *mala fide* on the part of the respondent No. 1 or the selection committee. Further, we may observe, that a tie



between candidates needed to be resolved and in case the respondent No. 1 chose the criteria of seniority in age, no fault can be found in adoption of such a criterion; neither can it be said that the criteria adopted was unfair in any manner. The learned Single Judge relying upon **Kalu Ram Saini v. Union of India & Ors.**, [W.P.(C) 9899/2019, decided on 07.01.2025], has held that where the advertisement was silent on the tie-breaking mechanism, age as the determining factor to resolve a tie between the candidates securing equal marks can be taken into account. Accordingly, the learned Single Judge has also observed that Article 14 of the Constitution of India forbids arbitrariness, not the adoption of a reasonable method in an area where the rules are silent.

18. We express our complete agreement with such finding recorded by the learned Single Judge in this respect as well.

19. Learned counsel for the appellant has relied upon certain information provided under the Right to Information Act in relation to the rules relating to appointment in Oil and Natural Gas Corporation (ONGC) in a situation where the selected candidate after the joining resigns. As per the said information provided which is in relation to ONGC, in case a selected candidate resigns within the validity period of the panel, particularly within two months of joining of selection, it is the name of next candidate in the panel which is to be released for appointment. The said information further provides that the rules prevailing in the ONGC provide that the vacancy arising due to resignation of a selected candidate during validity period of the panel can be filled in from the wait list. However, the provisions for meeting such exigencies as are available and applied in ONGC cannot, *ipso*



facto, be borrowed in their application to the respondent No.1 organization i.e. Pawan Hans Limited. No parity, thus, can be sought with the rules prevailing in the ONGC by the appellant for the reason that the appellant has utterly failed to show that any such rule, as exists in the ONGC, has been in operation within the organization of respondent No.1.

20. In view of the aforesaid discussion, we do not find any ground to interfere with the impugned judgment and order dated 30.04.2026, passed by the learned Single Judge.

21. Resultantly, the appeal fails which is hereby dismissed. No order as to costs.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

JULY 21, 2026

N.Khanna