

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

DATE OF DECISION : 25.8.2017

1. L.P.A. No.1248 of 2016 (O&M)
Aajib Singh and others v. State of Punjab and others.
2. L.P.A. No. 1257 of 2016 (O&M)
Kirandip Singh and others v. State of Punjab and others.
3. L.P.A. No.1281 of 2016 (O&M)
Ashok Kumar and others v. State of Punjab and others.
4. L.P.A. No.1322 of 2016 (O&M)
Gurdeep Singh and others v. State of Punjab and others.
5. L.P.A. No.1323 of 2016 (O&M)
Harpreet Singh and others v. State of Punjab and others.
6. L.P.A. No.1324 of 2016 (O&M)
Sukhwinder Pal Singh and others v. State of Punjab and others.
7. L.P.A. No.1325 of 2016 (O&M)
Surinder Pal Sharma and others v. State of Punjab and others.
8. L.P.A. No.1326 of 2016 (O&M)
Hari Dass and others v. State of Punjab and others.
9. L.P.A. No.1327 of 2016 (O&M)
Jaspal Singh and others v. State of Punjab and others.
10. L.P.A. No.1328 of 2016 (O&M)
Balwinder Singh and others v. State of Punjab and others.
11. L.P.A. No.1329 of 2016 (O&M)
Baljinder Singh and another v. State of Punjab and others.
12. L.P.A. No.1330 of 2016 (O&M)
Harwinder Singh and others v. State of Punjab and others.

13. L.P.A. No.1331 of 2016 (O&M)
Daljit Singh and others v. State of Punjab and others.
14. L.P.A. No.1332 of 2016 (O&M)
Gurpreet Singh and others v. State of Punjab and others.
15. L.P.A. No.1333 of 2016 (O&M)
Ekjot Singh and others v. State of Punjab and others.
16. L.P.A. No.1334 of 2016 (O&M)
Surinderpal Singh and others v. State of Punjab and others.
17. L.P.A. No.1335 of 2016 (O&M)
Abhisekh Kumar and others v. State of Punjab and others.
18. L.P.A. No.1336 of 2016 (O&M)
Sukhdev Singh and others v. State of Punjab and others.
19. L.P.A. No.1337 of 2016 (O&M)
Harjinder Singh and othes v. State of Punjab and others.
20. L.P.A. No.1338 of 2016 (O&M)
Harjit Singh and others v. State of Punjab and others.
21. L.P.A. No.1339 of 2016 (O&M)
Jasbir Singh and others v. State of Punjab and others.
22. L.P.A. No.1340 of 2016 (O&M)
Charanjit Singh and others v. State of Punjab and others.
23. L.P.A. No.1341 of 2016 (O&M)
Kuldeep Singh and others v. State of Punjab and others.
24. L.P.A. No.1342 of 2016 (O&M)
Anil Sharma and others v. State of Punjjab and others.
25. L.P.A. No.1343 of 2016(O&M)
Harpreet Kaur v. State of Punjab and others.
26. L.P.A. No.1344 of2016 (O&M)
Sukhpal Singh and others v. State of Punjab and others.

27. L.P.A. No.1345 of 2016 (O&M)
Sukhdev Singh and others v. State of Punjab and others.
28. L.P.A. No.1346 of 2016 (O&M)
Harvinder Singh and others v. State of Punjab and others.
29. L.P.A. No.1347 of 2016 (O&M)
Sikander Pal Singh and others v. State of Punjab and others.
30. L.P.A. No.1348 of 2016 (O&M)
Damanjeet Singh and others v. State of Punjab and others.
31. L.P.A. No.1411 of 2016 (O&M)
Gagandeep and others v. State of Punjab and others.
32. L.P.A. No.1494 of 2016 (O&M)
Jagjit Singh and others v. State of Punjab and others.
33. L.P.A. No.1495 of 2016 (O&M)
Harwinder Kaur and others v. State of Punjab and others.
34. L.P.A. No.1496 of 2016 (O&M)
Rachhpal Singh and others v. State of Punjab and others.
35. L.P.A. No.1504 of 2016 (O&M)
Jora Singh and others v. State of Punjab and others.
36. L.P.A. No.1508 of 2016 (O&M)
Vishal and others v. State of Punjab and others.
37. L.P.A. No.1509 of 2016 (O&M)
Pawan Kishore and others v. State of Punjab and others.
38. L.P.A. No.1510 of 2016 (O&M)
Rajveer Kaur and others v. State of Punjab and others.
39. L.P.A. No.1511 of 2016 (O&M)
Amandeep Singh and others v. State of Punjab and others.
40. L.P.A. No.1512 of 2016 (O&M)
Gurbaj Singh and others v. State of Punjab and others.

41. L.P.A. No.1513 of 2016 (O&M)
Gurmeet Singh and others v. State of Punjab and others.
42. L.P.A. No.1516 of 2016 (O&M)
Joginder Singh and others v. State of Punjab and others.
43. L.P.A. No.1520 of 2016 (O&M)
Nirmal Ram @ Nirmal Singh & others v. State of Punjab and others.
44. L.P.A. No.1521 of 2016 (O&M)
Jagsir Singh and another v. State of Punjab and others.
45. L.P.A. No.1522 of 2016 (O&M)
Balvir Singh and others v. State of Punjab and others.
46. L.P.A. No.1523 of 2016 (O&M)
Gurminderjit Singh and others v. State of Punjab and others.
47. L.P.A. No.1524 of 2016 (O&M)
Lokesh Chander v. State of Punjab and others.
48. L.P.A. No.1532 of 2016 (O&M)
Jaspal Singh and others v. State of Punjab and others.
49. L.P.A. No.1534 of 2016 (O&M)
Kuljinder Kaur v. State of Punjab and others.
50. L.P.A. No.1536 of 2016 (O&M)
Gurpal Singh and others v. State of Punjab and others.
51. L.P.A. No.1538 of 2016 (O&M)
Major Singh and others v. State of Punjab and others.
52. L.P.A. No.1539 of 2016 (O&M)
Parvinder Singh and others v. State of Punjab and others.
53. L.P.A. No.1542 of 2016 (O&M)
Rakesh Kumar and others v. State of Punjab and others.
54. L.P.A. No.1552 of 2016 (O&M)
Abdul Hameed and others v. State of Punjab and others.

55. L.P.A. No.1560 of 2016 (O&M)
Balvir Singh and others v. State of Punjab and others.
56. L.P.A. No.1589 of 2016 (O&M)
Amritpal Kaur and others v. State of Punjab and others.
57. L.P.A. No.1835 of 2016 (O&M)
Surjit Singh and othes v. State of Punjab and others.
58. L.P.A. No.1849 of 2016 (O&M)
Jagpal Singh and others v. State of Punjab and others.
59. L.P.A. No.1851 of 2016 (O&M)
Iqbal Singh v. State of Punjab and others.
60. L.P.A. No.1853 of 2016 (O&M)
Davinder Singh v. State of Punjab and others.
61. L.P.A. No.1868 of 2016 (O&M)
Paramjit Singh and others v. State of Punjab and others.
62. L.P.A. No.1871 of 2016 (O&M)
Kuldeep Singh v. State of Punjab and others.
63. C.W.P. No.20451 of 2016 (O&M)
Mandeep Singh and others v. State of Punjab and others.
64. L.P.A. No.1901 of 2016 (O&M)
Paramjeet Singh and another v. State of Punjab and others.
65. L.P.A. No.1902 of 2016 (O&M)
Radhey Sham and others v. State of Punjab and others.
66. L.P.A. No.1948 of 2016 (O&M)
Vicky Sharma and others v. State of Punjab and others.
67. C.W.P. No.21903 of 2016 (O&M)
Boota Singh v. State of Punjab and anothers.
68. L.P.A. No.2267 of 2016 (O&M)
State of Punjab and others v. Rajwansh Kaur.

69. C.W.P. No.17658 of 2016 (O&M)
Ram Singh v. State of Punjab and others.
70. L.P.A. No.1527 of 2016 (O&M)
Rajan Singla v. State of Punjab and others.
71. L.P.A. No.2199 of 2016 (O&M)
Harjeet Singh v. State of Punjab and others.
72. L.P.A. No.2200 of 2016 (O&M)
Sukhwinder Singh v. State of Punjab and others.
73. L.P.A. No.2213 of 2016 (O&M)
Shokat Ali and another v. State of Punjab and others.
74. L.P.A. No.2344 of 2016 (O&M)
Anju Bala and others v. State of Punjab and others.
75. L.P.A. No.2348 of 2016 (O&M)
Jaswant Kaur and others v. State of Punjab and others.
76. L.P.A. No.2359 of 2016 (O&M)
Jasvir Singh v. State of Punjab and others.
77. L.P.A. No.2368 of 2016 (O&M)
Navdeep Singh v. State of Punjab and others.
78. L.P.A. No.2422 of 2016 (O&M)
Manvir Singh and others v. State of Punjab and others.
79. L.P.A. No.2438 of 2016 (O&M)
State of Punjab and others v. Gurvinder Singh.
80. C.W.P. No.26855 of 2016 (O&M)
Jatinder Sharma v. State of Punjab and others.
81. L.P.A. No.265 of 2017 (O&M)
State of Punjab and others v. Jaswinder Singh.
82. L.P.A. No.266 of 2017 (O&M)
State of Punjab and others v. Chaman Lal and others.

83. L.P.A. No.267 of 2017 (O&M)

State of Punjab and others v. Navneet Kaur and others.

84. L.P.A. No.285 of 2017 (O&M)

State of Punjab and others v. Amandeep Kaur.

85. L.P.A. No.286 of 2017 (O&M)

State of Punjab and others v. Jagmohan Singh and others.

86. L.P.A. No.289 of 2017 (O&M)

State of Punjab and others v. Manjit Kumar and others.

87. C.W.P. No.14950 of 2017 (O&M)

Gagandeep Singh and others v. State of Punjab and others.

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI**

Present:- Shri H.C.Arora, Advocate
Shri R.K.Malik, Senior Advocate with Shri Mandeep Singh, Advocate
Shri R.K.Chopra, Senior Advocate with Ms.Gagandeep Kaur, Adv.
Shri Puneet Jindal, Sr.Advocate with Ms.Neha Anand Mahajan, Adv.
Shri Parvez Akhtar, Advocate
Shri G.S.Sandhu, Advocate
Shri Sukhdev Kamboj, Advocate
Shri Gopal Singh Nahel, Advocate
Shri Arvind Kashyap, Advocate
Shri Aakash Singla, Advocate
Shri M.K.Dhingra, Advocate
Shri B.S.Ichewal, Advocate
Shri M.S.Longia, Advocate
Shri A.S.Nabhewala, Advocate
Shri H.S.Saini, Advocate
Shri Sunny Singla, Advocate
Shri V.S.Dhindsa, Advocate
for the appellants.

Shri Harsimran Singh Sethi, Additional A.G. Punjab.

Ms.Alka Chatrath, Advocate for respondents No.1,6,7,9,10,13, 15 to 21, 24 to 38, 40, 41, 43,46, 48,49,51, 53 to 58, 60 to 65, 68 to 72, 74 to 77, 81, 82, 86, 87, 90, 91, 92, 94, 95 and 101 in LP.A. No.285 of 2016 and

for respondents No.1,3,12,14,18,19, 21 to 25 in L.P.A. No.286 of 2017.

MAHESH GROVER, J.

By this order we propose to dispose of L.P.A. Nos.1248, 1257, 1281, 1322 to 1348, 1411, 1494 to 1496, 1504, 1508 to 1513, 1516, 1520 to 1524, 1527, 1532, 1534, 1536, 1538, 1539, 1542, 1552, 1560, 1589, 1835, 1549, 1851, 1853, 1868, 1871, 1901, 1902, 1948, 2199, 2200, 2213, 2267, 2344, 2348, 2359, 2368, 2422, 2438 of 2016 and L.P.A. Nos.265, 266, 267, 285, 286 and 289 of 2017 and C.W.P. Nos.17658, 20451, 21903 and 26855 of 2016 and C.W.P. No.14950 of 2017 which arise out of the common judgment of the learned Single Judge and involve similarity of facts. Facts are taken from L.P.A. No.1248 of 2016.

An advertisement Annexure P-1 was given out on 23.10.2006 by the respondent-State of Punjab intending to fill up 175 posts of Physical Training Instructors, but by way of Corrigendum dated 8.11.2006, the number of posts went upto 849. The eligibility condition prescribed was Certificate in Physical Education. A number of persons applied including those who had Diploma and Degree in Physical Education, but were excluded from consideration in view of the insistence on the basic eligibility conditions of Certificate in Physical Education.

The interviews were conducted on 14.11.2006 resulting in appointment of 589 candidates. In this way, 260 posts out of total 849 advertised, remained unfilled leading to another advertisement on 13.8.2007 intending to fill up the left over 260 posts. 860 persons made the grade in the subsequent attempt and they were all given appointments on 2.11.2009.

In the meantime, one Manjit Singh as also many others who were Diploma Holders or Graduate in Physical Education, filed C.W.P. No.2868 of 2007 which was disposed of in the following terms :-

“In view of the above, we consider it just and appropriate to direct the Director, Public Instructions (Schools), Punjab to treat the instant writ petition as representation on behalf of the petitioners. He shall consider the claim of the petitioners on the basis of their merit coupled with eligibility and pass a well reasoned speaking order within three months from the date of receipt of a certified copy of this order. In case the petitioners, on such consideration, fall within the zone of selection, appointment orders shall be issued to them within one month thereafter.

If the rights of any selected candidates are likely to be prejudiced on consideration of the claim of the petitioners, it will be imperative for the Director, Public Instructions (Schools), Punjab to proceed in accordance with law and pass an appropriate order after affording an opportunity of hearing to such effected person.”

The competent authority passed a speaking order negating the claim of the writ petitioners leading to another C.W.P. No.451 of 2008 wherein the Writ Court dealing with the matter, thought it appropriate to refer the matter to a Larger Bench in view of the conflict between the two divergent views expressed by this Court in separate proceedings.

The vexed question posed before the Full Bench was, “Whether a candidate possessing higher qualifications than the one prescribed in the advertisement for the post is eligible for such selection/appointment ?”

In the advertisement, the basic qualification prescribed is extracted here below :-

“(E) Basic Qualification and Professional Qualifications :

- (1) Senior Secondary School Certificate or Intermediate or its equivalent ; and
- (2) Certificate in Physical Education (C.P.Ed.) of a duration of not less than two years or its equivalent.”

The Corrigendum carried a further endorsement which we may also extract here below :-

“Certificate in Physical Education Courses of one year duration after Senior Secondary School Certificate or Intermediate or its equivalent. However, this exception shall not be available in any recruitment after the year 2007 because the Education Institutions are duty bound as per NCTE Regulation to commence the two year course from 2005.”

After examining the issue, the Full Bench concluded as follows :-

“... The candidate possessing higher qualification in the same line cannot be excluded from consideration for selection. It is a different matter that he/she may not be entitled to any additional weighage for higher qualification, but cannot be denied consideration at par with a candidate possessing minimum prescribed qualification. Denying consideration to a candidate having better and higher qualification in the same line and discipline would definitely result in breach of Articles 14 and 16 of the Constitution of India.

The reference is answered accordingly.

Let the writ petition be placed before the learned Single Judge for decision on merits.”

Thereafter the writ petition was directed to be listed before the

learned Single Judge for decision on merits.

The learned Single Judge decided the matter by observing as follows:-

“In view of the judgment of the Hon'ble Full Bench, the petitioners, who are holding qualifications of D.P.Ed./B.P.Ed. etc. are eligible and their candidature is required to be considered for selection/appointment.

In view of the above circumstances, these petitions are disposed of with a direction to the respondents to consider the candidature of the petitioners for selection/appointment treating them eligible for the post.

Let the entire exercise be completed within a period of two months from the date of certified copy of this order is served upon the competent authority.”

Through various orders in different writ petitions, similar directions were reiterated and petitions disposed of in the same terms.

What we need to emphasize here is the fact that during the pendency of these proceedings i.e. the writ petitions before the Full Bench and before the learned Single Judge, appointments had been made in the year 2006(589) and 2009 (76). Another aspect which is of utmost consequence in the present case and tilts the entire fulcrum, to result in an imbalance of law and equity, is that none of these selected and appointed candidates were impleaded as party-respondents in the writ petition preferred by those who possessed higher qualifications of Diploma and Degree and were struggling for their claim for consideration and appointment.

A direct impact of the directions given on 6.1.2011 by the Writ Court (Single Bench) as extracted above was that the entire merit had to be re-framed and as a natural consequence thereof, certain incumbents who stood already appointed, possibly would have to lose out in the selection.

In order to comply with the directions of the learned Single Judge, an advertisement was given out by the State apprising all the stake-holders of the intended exercise to re-frame and re-cast the entire selection list and upon doing so, it was discovered that more than 421 incumbents appointed earlier stood to lose out while many others now stood to gain a foot-hold in the selection list by virtue of re-consideration.

These persons who were likely to be affected, were issued show cause notices by the State.

A number of writ petitions came to be filed by those threatened with such an expulsion. Some of the incumbents challenged the advertisement dated 22.6.2011 and the show cause notices.

The Writ Court granted them interim injunctions. A bunch of writ petitions whose list is appended with the orders impugned in the present appeals, were then decided.

The learned Single Judge in the impugned order carved out 4 categories of affected persons :-

The first category defined by the learned Single Judge was of those persons who lost out their assignments after having gained appointment in the years 2006 and 2009 and all of them were never heard in any proceedings initiated by the Diploma and Degree Holders as they were never impleaded as parties.

The second category identified by the learned Single Judge pertained to those appointed on the re-drawn merit list constituted of Diploma and Degree holders resulting in displacement of 421 persons referred to in the first category.

The third category was of 419 candidates awaiting appointment against unfilled vacancies by proclaiming themselves to be in the line of merit.

The fourth category wanted the entire selection process to be scrapped even though they were not the applicants who had approached the Writ

Court seeking nullification of the process altogether.

In conclusion, the learned Single Judge allowed the writ petitions qua the first category to quash the show cause notices issued to them and making the interim orders absolute. In short, the appointments of the incumbents made in the year 2006 and 2009 in the very first attempt, were saved.

The second category of 119 candidates who had higher qualifications of Diploma and Degree, but were not given appointments, were also directed to be accommodated since more than 400 persons of the same category had been taken in at the cost of displacement of 422 persons initially appointed in the years 2006 and 2009.

In this manner, the State filled up 1250 posts as against 849 advertised originally.

The third category as mentioned by the learned Single Judge wanting appointments against the unfilled vacancies and the fourth category wanting the entire process to be scrapped, were not granted any relief as their petitions were dismissed.

Before us, the State as also those incumbents having Diploma and Degree to their credit, left out from the process of employment as also those whose appointments are threatened, are in appeals.

The State expresses its inability to accommodate any more persons as they are already in excess of the advertised posts. We have been given a detailed Chart of the candidates who have been appointed against different categories. The said Chart is extracted here below indicating the total posts for various categories and filled up both in terms of the advertisement prescribing CPED and those given appointment in view of the decision of the Full Bench in Manjit Singh's case:-

ANNEXURE-E

.....										
Sr.No.	Category	Posts advertised in 2006			Appointments given to CPED in 2006.		Appointments given to CPED in 2007.		Appointment given in revised merit after Manjit Singh case.	Total
.....										
		Total	CPED	CPED	CPED	CPED	CPED	CPED		
.....										
			Female	Male	Female	Male	Female	Male		
.....										
1.	General	423	211	212	211	212	00	00	256	679
2.	Backward Class.	85	42	43	18	35	24	08	33	118
3.	ESMBC	17	08	09	01	01	01	05		08
4.	Ex-Service-man.	60	30	30	03	30	06	00	02	41
5.	SC (M&B)	86	43	43	09	14	04	04	42	73
6.	SCRO	85	43	42	05	30	04	08	48	95
7.	SC ESM RO	16	08	08	00	02	00	00	07	09
8.	SC ESM MB	17	08	09	00	04	00	00		04
9.	Freedom Fighter	08	04	04	00	04	02	00	06	12
10.	Handi-capped.	26	13	13	00	02	00	00	05	07
11.	Freedom Figher.	08	04	04	00	04	02	00	06	12
12.	Handi-capped.	26	13	13	00	02	00	00	05	07
13.	Sports General	17	08	09	01	07	07	02		17
14.	Sports SC.	09	04	05	00	00	01	00		01
.....										
	TOTAL	849	422	427	248	341	49	27	399	1064
.....										
			849		589		76			
.....										

Those incumbents who are desirous of employment against the left over vacancies, contend that the posts are lying vacant and they are certainly higher in merit than those already appointed, i.e. those having CPED appointed in

the year 2006 and 2009. It is urged with some vehemence that if the merit had to be re-cast as it had already been done pursuant to the directions given by the learned Single Judge after the decision of the Full Bench, there would be no occasion to keep them out of employment and CPED candidates would certainly have to make way for them being higher in merit.

After hearing the learned counsel for the parties at some length what stands out, is the fact that the advertisement contained a basic qualification of Certificate in Physical Education and in the process of recasting merit after the decision of writ petitions decided on the basis of the Full Bench, the persons who gained employment in 2006 and 2009 could not have been disturbed as they were never impleaded as party respondents although the fact of their appointment was known to the writ petitioners when the issue of their eligibility on the ground of higher qualifications was agitated before the Court. One of the writ petitions was C.W.P. No.2868 of 2007 filed by Manjit Singh while the other petitioners filed the writ petitions in 2008. As many as 589 incumbents had already been appointed by that time and 76 incumbents in 2009 when the matter was being debated before the Writ Court as also in the Full Bench proceedings which gave its decision on 5.2.2010. No attempt was made by these writ petitioners to challenge the appointment of these persons even though their only claim was qua their eligibility and consequent selection. They successfully obtained an interpretation from the Court that per-se would have entitled them to consideration which indeed the learned Single Judge granted, but in our opinion, he erred substantially by ordering a re-cast ostensibly oblivious of the fact that as many as 679 out of 899 incumbents already occupied the posts, with no change to their appointments.

Shockingly, the State also made no endeavour to unravel this fact to the Writ Court and rather, strayed off course to adopt the path of sheer convenience and adhocism giving appointments to more persons than intended in the advertisement thereby clearly flouting the law and in doing so, offering an

excuse of dodging a consequence of directions given by the Writ Court as also the Contempt Court where proceedings were initiated by those who alleged non-compliance of the Writ Court's directions.

This is thus, a situation created by the State itself and now when confronted with its complexity, have filed some of the present appeals seeking to save their own skin once again.

The vexed question before us is now to balance the law and equity. If we see from the angle of the legal perspective, then 421 incumbents who were appointed pursuant to the selection of 2006, could not have been shown the door which was the direct consequence of re-casting the merit pursuant to the judgment of the learned Single Judge and that too, without impleading them as necessary parties in the writ proceedings. No wonder, all these persons had knocked the door of the Court after re-casting of the merit, when threatened with ouster and the courts rightly granted them interim injunction which has now been made absolute by the learned Single Judge by protecting their appointments altogether.

On similar grounds those who gained appointment, even though under erroneous situation emerging from the judgment of the learned Single Judge and subsequent re-casting of the merit, their services would need to be protected considering that these employees have been in employment for sufficiently long time by now. Upsetting the cart at this juncture would be a travesty and involve serious consequences of a human tragedy when these persons would be well entrenched in their service and travelled a long way into their lives.

We, therefore, let the matter rest in so far as these appointments which have been made so far.

In L.P.A. Nos.1322 of 1348 of 2016, the appellants are all those persons who do not make a grade to the select list unless the arrangement is further disturbed resulting in displacement of those who are already in employment. To understand, we may just briefly touch upon the numerical figures reflecting the

filling up of posts. Out of the total cumulative selection made in the years 2006 and 2009, 665 appointments were made. Subsequent to the re-casting of the merit list, 518 incumbents would have made the grade displacing 421 persons who were granted restraint order and continued to perform their duties. They fall in the categories of those persons who gained employment between 2006 and 2009 indicating the subsistence of arrangement for as long as 11 years or 8 years. Out of these 518 persons whose names find mention in the re-cast merit, 399 already stand appointed by the State when confronted with further litigation under Contempt etc., leaving a deficit of 119 which have now been mandated to be adjusted in terms of the judgment of the learned Single Judge. The appellants in the afore-stated appeals do not come even in this category of the re-cast merit and rather, plead that their cases ought to be treated as higher in merit than the one who are having Certificate in Physical Education (cases of 421 persons) selected in the year 2006 whose arrangement we have directed not to be disturbed.

Repeatedly, it has been urged before us that there are vacancies existing and the State should grant them a similar indulgence as the one in favour of such Diploma and Degree Holders.

We would not succumb to such a proposition even on equitable grounds, for the simple reason that there has been an aberration and erosion of the process of law already and accepting the plea would be to become a privy to such erosion. There would be another reason to decline such a prayer as after a lapse of 11 years, there would be more persons awaiting having acquired eligibility and desirous of being considered in the event of a selection process being opened once again.

We have also been informed by the learned counsel for the State that in 2011, some posts have been advertised, but the process has still not been finalised.

In this situation, we direct that the State should consider the

eligibility of all these incumbents as on 2011. They may also consider a relaxation of age in so far as these persons are concerned because this is a situation of the making of the State itself. Rest of the process of selection would be uniformly applied as per the advertisement.

In L.P.A. No.1411 of 2016, the grievance of the appellant is that even though he had applied in the year 2006, he was not considered. This is countered by the learned counsel for the State to contend that even though the appellant was indeed considered, but he did not make the grade. Learned counsel for the appellant contends that there was a subsequent advertisement in 2006 for the left over vacancies. This advertisement is neither on record, nor was produced before the learned Single Judge. Thus, we do not intend to interfere.

All the appeals are disposed of.

(MAHESH GROVER)
JUDGE

(RAJ SHEKHAR ATTRI)
JUDGE

August 25, 2017
GD

Whether speaking/reasoned	Yes
Whether reportable	Yes/No