

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

CWP No.28834 of 2017 (O&M)

Date of decision: 18.08.2018

Nasib Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.K. Malik, Senior Advocate,
with Mr. Sandeep Dhull, Advocate,
for the petitioners.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

Ritu Bahri, J.

The petitioners are seeking direction to the respondents to fill up 05 posts of Ex-servicemen BC-A category remained vacant due to non availability of the candidates from the waiting list of BC-A category.

Facts not in dispute are that there were 14 posts for Ex-servicemen BC-A category, which were advertised. However, only 09 candidates were available and 05 posts remained vacant due to non availability of Ex-servicemen BC-A category candidates.

A similar issue came up for consideration before this Court in **Dharambir Singh and others vs. State of Haryana and others**, CWP No.24503 of 2015 (decided on 14.01.2016), wherein reference was made to the clarification dated 04.04.2014 issued by the Chief Secretary, whereby it was clarified that in case no suitable candidate is found for appointment against the posts meant for ESM (SC/BC/General), the same be filled up from the main category i.e. SC, BC or General category respectively and

there is no need to re-advertise the vacancy. The benefit of this clarification had not been extended to the petitioners (in that case). Ultimately, the writ petition was allowed following the judgment passed by this Court in **Garima Jindal vs. Haryana Vidyut Parsaran Nigam Ltd. and another,** CWP No.13384 of 2011 (decided on 06.08.2012). The respondent-State did not file any LPA against the said judgment, therefore, the same had attained finality.

In the present case, learned counsel for the petitioners has placed on record copy of judgment passed in **Rakesh Kumar vs. State of Haryana and others,** CWP No.27127 of 2017, decided on 04.12.2017 (Annexure P-11), whereby the petitioners were seeking the same benefit of appointment after converting the posts advertised in the Ex-servicemen Category to the General Category. The said petition was allowed. Similar orders have been passed in **Dharmender Lakra and others vs. State of Haryana and others,** CWP No.21343 of 2014, decided on 15.03.2017 (Annexure P-8) by following the judgment passed in **Dharambir Singh's** case (supra).

The present case is squarely covered by the aforesaid judgments passed by this Court.

Accordingly, this petition is allowed and a direction is being given to the respondents to fill up 05 posts of Ex-servicemen BC-A category, which remained vacant due to non availability of the candidates, from the waiting list of BC-A category, as per merits.

18.08.2018
ajp

(RITU BAHRI)
JUDGE