

**CM-41-942-1879-LPA2016,
CM-838-3398-LPA-2017
CM-1492-1493-LPA-2018 in/and
LPA-1495-2015 (O&M) and connected case**

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

**1. CM-41-942-1879-LPA2016,
CM-838-3398-LPA-2017
CM-1492-1493-LPA-2018 in/and
LPA-1495-2015 (O&M)
Date of Decision: August 30, 2018**

Mohit Chhabra and othersAppellants
Versus
State of Punjab and othersRespondents

2. LPA-2208-2016
Pritpal Singh and anotherAppellants
Versus
State of Punjab and anotherRespondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr.Mohit Jaggi, Advocate for the appellant Nos.1, 4 and 6 in
LPA-1495 of 2016 and for all the appellants in LPA-2208-2016.
Mr.Priyanshu Kamra, Advocate for appellant No.8
in LPA-1495-2016.

Mr.Sandeep Virmani, Addl.AG, Punjab.

.....

SURYA KANT, J.(ORAL)

CM-1492-1493-LPA-2018

The applications are allowed subject to all just exceptions and
the documents are taken on record.

CMs stand disposed of.

CM-3398-LPA-2017

Application is allowed subject to all just exceptions and
Annexure A-1 is taken on record.

CM stands disposed of.

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Main case

This order shall dispose of the above captioned Letters Patent Appeals as the point in issue involved in all the cases is common in nature. The facts are extracted from LPA-1495-2016.

[2] The appellants filed CWP-18135-2015 seeking direction to notify further selection list for appointment against 524 vacant posts of Clerks which remained unfilled out of total 1836 advertised posts. Learned Single Judge dismissed the writ petition in limine vide order under appeal dated 22.09.2015 having found that similar claim had already been turned down by another Ld.Single Judge whose judgment had been further upheld in LPA-151581 of 2013 decided on 19.05.2014.

[3] When this appeal came up for hearing on 27.09.2016, the following order was passed:-

“ The controversy pertains to appointment of Clerks pursuant to advertisement No.2 of 2013 whereby 1192 posts of Clerks were advertised. Since the appellants have taken a categoric stand that 181 candidates who were selected and offered appointment, did not join and such posts have remained unfilled, let the competent Authority ascertain the correct facts and take a holistic view as to whether the vacancies which could not be filled up due to non-joining of selected candidates, can be offered to the next candidates strictly in order of merit and in accordance with law.

It is made clear that these directions are with reference to 1192 advertised posts only. The subsequent vacancies cannot be added for the purpose of compliance of these directions.

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While considering the claim, merit shall be the sole criteria irrespective of the fact whether the candidate belongs to open category or reserved category.....”

[4] The above reproduced order was further clarified on 20.03.2017 in following terms:

“ Learned State counsel has explained the difficulties being experienced by the official respondents so far as the compliance of the observations made in the order dated 27.09.2016 are concerned. It further appears that the question as to whether the general category candidates who are lower in merit than the reserved category candidates can still be retained in service or they will have to be taken out to accommodate the candidates higher in merit (irrespective of the category), is *sub judice* in CWP-12618-2014 which is now listed for 30.05.2016.”

[5] In deference to the directions reproduced above, Dr.Kamal Kumar, Secretary, Subordinate Services Selection Board, Punjab has filed additional affidavit dated 18.11.2016, para Nos.6 and 7 whereof read as follows:-

“6.That it is respectfully submitted that in compliance with aforesaid directions of this Hon'ble Court, the respondents Board has decided to recommend the names of 181 candidates who are next in merit than the earlier selected candidates. In the list of 181 candidates, 46 candidates belong to General Category and their merit is below the merit of 251 candidates of General Category who would be out of the

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appointment zone, if the names of reserved category candidates are included in the general category list.

7. That it is further respectfully submitted that the respondents Board can accommodate the ousted candidates to the extent of available posts which remained unfilled in the recruitment process in question due to non joining and cancellation of candidates for want of possession of a valid graduate degree of selected candidates.”

[6] It may, thus, be seen that names of the candidates to the extent of vacant posts have been recommended keeping in view the inter se merit as well as category to which a candidate belongs.

[7] The selection process pertains to the year 2013. The appointments have already been made. It is only with regard to the left out vacancies that the appellants have been pursuing their claim. In view of the fact that as per the revised merit list, the candidates have been recommended against the available vacant posts, the order passed by learned Single Judge stands modified to that extent. No further directions are called for.

[8] The appeals are disposed of in above terms.

**(SURYA KANT)
JUDGE**

August 30, 2018
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**(SUDIP AHLUWALIA)
JUDGE**

- 1. Whether speaking/reasoned ?**
- 2. Whether reportable ?**

**Yes/No
Yes/No**