

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-362-2018 (O&M)
Date of decision: 10.08.2018

Haryana Staff Selection Commission
.....Appellant
versus
Priyanka and others
.....Respondents

LPA-405-2018 (O&M)

Haryana Staff Selection Commission
.....Appellant
versus
Aditi Kumari and others
.....Respondents

LPA-406-2018 (O&M)

Haryana Staff Selection Commission
.....Appellant
versus
Manjit Kumar and others
.....Respondents

LPA-407-2018 (O&M)

Haryana Staff Selection Commission
.....Appellant
versus
Bharti and others
.....Respondents

LPA-408-2018 (O&M)

Haryana Staff Selection Commission
.....Appellant
versus
Richa and others
.....Respondents

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LPA-409-2018 (O&M)

Haryana Staff Selection Commission

.....Appellant

versus

Deepak and others

.....Respondents

LPA-412-2018 (O&M)

Haryana Staff Selection Commission

.....Appellant

versus

Rajwinder Kaur and others

.....Respondents

LPA-413-2018 (O&M)

Haryana Staff Selection Commission

.....Appellant

versus

Krishan Panwar and others

.....Respondents

LPA-414-2018 (O&M)

Haryana Staff Selection Commission

.....Appellant

versus

Preeti Rani and others

.....Respondents

LPA-415-2018 (O&M)

Haryana Staff Selection Commission

.....Appellant

versus

Sheetal and others

.....Respondents

LPA-416-2018 (O&M)

Haryana Staff Selection Commission

.....Appellant

versus

Pooja Verma

.....Respondent

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	LPA-417-2018 (O&M)
Haryana Staff Selection Commission	Appellant
versus	
Sunil Kumar	Respondent
	LPA-418-2018 (O&M)
Haryana Staff Selection Commission	Appellant
versus	
Rekha Devi and others	Respondents
	LPA-420-2018 (O&M)
Haryana Staff Selection Commission	Appellant
versus	
Kailash Chander	Respondents
	LPA-421-2018 (O&M)
Haryana Staff Selection Commission	Appellant
versus	
Anil Kumar and others	Respondents
	LPA-425-2018 (O&M)
Haryana Staff Selection Commission	Appellant
versus	
Beenu and others	Respondents
	LPA-427-2018 (O&M)
Haryana Staff Selection Commission	Appellant
versus	
Reema Gupta and others	Respondents

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	LPA-434-2018 (O&M)
Haryana Staff Selection Commission	Appellant
versus	
Swati Kumari and others	Respondents
	LPA-435-2018 (O&M)
Haryana Staff Selection Commission	Appellant
versus	
Sunil Kumar and others	Respondents
	LPA-436-2018 (O&M)
Haryana Staff Selection Commission	Appellant
versus	
Suman Sheoran and others	Respondents
	LPA-437-2018 (O&M)
Haryana Staff Selection Commission	Appellant
versus	
Garima Rani and others	Respondents
	LPA-439-2018 (O&M)
Haryana Staff Selection Commission	Appellant
versus	
Ruby	Respondent
	LPA-442-2018 (O&M)
Haryana Staff Selection Commission	Appellant
versus	
Pankaj Kumar Yadav and others	Respondents

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.....Appellant

.....Respondent

.....Appellant

.....Respondents

.....Appellant

.....Respondents

.....Appellant

.....Respondents

.....Appellant

.....Respondents

.....Appellant

.....Respondents

LPA-613-2018 (O&M)

Haryana Staff Selection Commission

.....Appellant

versus

Manvi and others

.....Respondents

LPA-968-2018 (O&M)

Haryana Staff Selection Commission

.....Appellant

versus

Sarla Devi and others

.....Respondents

**CORAM: Hon'ble Mr.Justice A.B.Chaudhari
Hon'ble Mr.Justice Kuldeep Singh**

Present: - Mr. Samarth Sagar, Addl. AG, Haryana.

Mr. R.K.Malik, Sr. Advocate with
Mr. Sunil Hooda, Advocate and
Mr. Rahul Deswal, Advocate for respondent and
Mr.Vikram, Advocate for
Mr. Sanjeev, Advocate for respondent.
Mr. Jasjeet Singh Virk, Advocate for
Mr. Sanjeev Kodan respondent No. 1

Mr. R.K.Girdhwal, Advocate for respondent
(LPA-406, 414, 470 and 517-2018)
Mr. Satnam Sishodia, Advocate for respondent No. 2
(LPA-406 and 407-2018)

Mr. Lalit Rishi, Advocate for respondent (LPA-412-2018)
Mr. Sachin Dhull, Advocate for respondent No. 1
(LPA-413-2018)
Mr. Santlal Barwala, Advocate for respondent No. 1.
(LPA-415-2018)
Mr. Raj Kumar, Advocate for respondent
(LPA-421-2018) and
Mr. Mukesh Yadav, Advocate for respondents
(LPAs-421 and 572-2018)
Mr. S.K.Hooda, Advocate and
Mr. Amit Rao, Advocate for Mr. Anurag Goyal, Advocate

for respondent(s).

(LPA-434-2018)

Mr. D.R. Bansal, Advocate for respondents

(LPA-439-2018)

Mr. Pankaj Middha, Advocate for respondent No. 1

(LPA-408-2018)

Mr. J.S. Saini, Advocate for respondent No. 1.

Mr. Rajinder S. Rana, Advocate for respondent No. 3

(LPA-968-2018)

*1. Whether Reporters of Local newspapers may be allowed to see the judgment ? **yes***

*2. To be referred to the Reporters or not ? **yes***

*3. Whether the judgment should be reported in the Digest? **yes***

Kuldip Singh, J.

CM No.924-LPA-2018

For the reasons mentioned in the application the same is allowed and delay in filing the appeal stands condoned.

Main case

By this common judgment, we shall dispose of LPA Nos.362, 405 to 409, 412 to 418, 421, 425, 427, 434 to 437, 439, 442, 443, 470, 517, 571, 572, 591, 613, 918 of 2018.

Haryana Staff Selection Commission has preferred these Intra Court Appeals against judgment dated 23.10.2017 passed by a Single Bench of this Court, in which, the following order was passed:-

12. Hence, in view of what has been stated hereinabove, as also as per the ratio of the Division Bench judgment in CWP no.9533 of 2001, “Ankita Beniwal vs. Haryana Public Service Commission”, these petitions are allowed and the respondent Commission is directed to interview the petitioners if they otherwise come within the zone of selection as per the marks obtained by the last candidate, in each category in which the

petitioners have applied, provided of course that the result in the case of each petitioner, in the examination concerned, was disclosed by the respondent University prior to the cut off date i.e. 12.10.2015 as per the corrigendum Annexure P-2.

The facts of the case are extracted from LPA No.362 of 2018.

The controversy in the present case is very short. The Haryana Staff Selection Commission advertised posts for Post Graduate Teachers in different disciplines, including Mathematics and English. The last date for receipt of online applications form was 12.10.2015. Since B.Ed. result of the petitioners was not officially declared by Maharshi Dayanand University, Rohtak before the said cut off date, they applied to the University for conveying their result confidentially, which the University did and in this way, on the basis of the confidential result, the petitioners applied before the cut off date i.e. 12.10.2015. There is no dispute regarding the same. The result was declared on 5.11.2015 when the cut off date had already passed. This Court is informed that in the result, all the petitioners passed their examination, though there was little difference in marks between the marks conveyed through confidential result and the result officially declared. Screening test was done on 6.3.2016 and the interviews were held from 7.10.2016 to 10.10.2016. During screening, candidature of the petitioners was rejected on the ground that their result was not officially declared before the cut off date.

The question posed before the learned Single Bench as well as before this Bench is as to whether the result confidentially declared by the University is a validly declared result?

After hearing learned counsel for the appellant as well as the

respondents-writ petitioners, we are of the view that there is no illegality or infirmity in the impugned order of the Single Bench. In this case, when the result was not declared before the cut off date, the present petitioners applied to the University for declaring their result confidentially which the University did. The result was conveyed to the Haryana Staff Selection Commission confidentially which made the petitioners eligible.

Plea of learned counsel for the appellant is that in the Calender of Maharshi Dayanand University, Rohtak, for the year 2005, as per Clauses 29, 30 and 37, only the Registrar or Controller of Examination can publish the result. Since, the final result was not declared by the Registrar or the Controller of Examination, therefore, the result confidentially conveyed, is not a validly declared result.

We are of the view that the Haryana Staff Selection Commission has taken a hyper technical view of the matter. The University had the power to declare the result under its Calender. When the University had the power to declare final result, it has always got the power to declare the result of some of the students provisionally/ confidentially in case of emergent situation, which they did. Power of the Registrar to declare the result confidentially has not been specifically challenged by the Haryana Staff Selection Commission.

Learned counsel for the appellant has relied upon the authorities of the Apex Court in Rakesh Kumar Sharma vs. State (NCT of Delhi) and others, (2013) 11 Supreme Court Cases 58, Dolly Chhanda vs. Chairman, Jee and others, (2005) 9 Supreme Court Cases 779 and also of High Court of Delhi in Union Public Service Commission and another vs. Govt. of NCT of Delhi and others, Writ Petition (Civil) No.10058/2009,

decided on 25.1.2010.

In none of the aforesaid cases, there was a dispute that the result confidentially declared by the University before the cut off date and communicated to the Commission or the Haryana Staff Selection Commission, is illegal.

Learned counsel for the appellant has further argued that there was certain variation in the marks in the result declared confidentially and the final result.

We are of the view that it hardly affects the merits of the case. Sometime, at the time of declaration of result, some moderation is done and there is some variation. However, the fact remains that all the petitioners had qualified the B.Ed. examination and they were eligible to apply for appointment to the post of Post Graduate Teacher. Ultimately marks could be considered at the time of interview and if it affects the merits, the same can be taken into consideration. In any case, the final result was also declared on 5.11.2015 i.e. before the Screening Test, which took place on 6.3.2016, i.e. much before the date the Screening Test was conducted.

Learned counsel for the appellant has vehemently argued that in this case, some of the candidates could not apply for conveying their result confidentially and therefore, they could not be discriminated against.

The said contention was rightly repelled by the learned Single Bench of this Court. If some of the candidates did not bother to apply for confidential result, they are to blame themselves for the said lapse. In any case, those who are vigilant and had applied for confidential result and it was conveyed before the cut off date i.e. 12.10.2015, which made them eligible for applying for the post, their case has to be considered and

decided in terms of the directions of the learned Single Bench of this Court.

We are of the view that many times, Universities, due to some administrative reasons or slackness is unable to declare the result in time. The candidates, who are to get employment or further admission on the basis of the said result, are not to be made to suffer for the same. Therefore, most of the Universities have made provision for declaring the result provisionally/ confidentially, which is correct approach in such cases. Therefore, whether or not, there are any rules, the University, which has got the power to declare the final result, has also got the power to declare the result confidentially/provisionally before it is officially declared.

We are also of the view that Haryana Staff Selection Commission indulged in unnecessary litigation. Cut off date was given for applying for the post. Haryana Staff Selection Commission should have noticed that in many cases, the concerned Universities are unable to declare result in time. They should be only concerned that the candidates, who applied for the post are eligible for being considered. For that the Haryana Staff Selection Commission could conveniently amend the Rules and/or the condition to ensure that the date of eligibility is to be seen as on the date of Screening or the interview. Some of the Institutions have already done the same.

Therefore, we direct the Haryana Staff Selection Commission as well as State of Haryana that, for future, consider the recommendations of this Court that the eligibility of educational qualification should be considered at the time of Screening or interview so that the candidates whose results are declared late, do not suffer and lose the chance to compete for the said post and possible selection.

In view of the matter, we do not find any illegality or infirmity in the impugned order dated 23.10.2017 passed by a Single Bench of this Court. Consequently, all the present LPAs are dismissed.

A copy of the judgment be placed on the connected case files.

(A.B.Chaudhari)
Judge

(Kuldip Singh)
Judge

10.08.2018

gk

Whether speaking/ reasoned:	Yes
Whether Reportable:	Yes