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

Date of decision: June 02, 2022

1. CWP-9972-2022 (O&M)

Niharika Rawat and others

....Petitioners

versus

State of Haryana and another

....Respondents

2. CWP-10063-2022 (O&M)

Kushager and another

....Petitioners

versus

State of Haryana and another

....Respondents

3. CWP-11026-2022 (O&M)

Gaurav Garg and another

....Petitioners

versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. D.R. Bansal, Advocate,
Mr. Neeraj Sheoran, Advocate,
Mr. Parvinder Moar, Advocate and
Ms. Chhavi Sharma, Advocate for the petitioner(s).

Ms. Mamta Singla Talwar, DAG Haryana.

Mr. Kanwal Goyal, Advocate and
Mr. Govind Tanwar, Advocate for the respondent-HPSC.

ARUN MONGA, J. (ORAL)

Vide this common order, abovementioned bunch of three writ petitions filed by total of 10 petitioners, aspirants to be HCS officers, are being disposed of since the facts/issues involved therein are similar. For brevity, recitals are from CWP-9972-2022.

2. *Inter alia* issuance of a writ in the nature of Certiorari is sought herein, to set aside a public announcement dated 02.05.2022 (Annexure P-2) qua an advertisement no.3/2021 published on 26.02.2021, to the limited extent respondent No.2-Haryana Public Service Commission has stated therein that no fresh applications are to be invited for holding preliminary examination of Haryana Civil Services (Executive Branch) and other Allied Services.

3. Announcement was necessitated owing to the cancellation of the earlier scheduled preliminary examination. Resultantly, during the interregnum of cancellation period, many other aspirants like the petitioners would have become eligible by virtue of their qualifications and/ or age, which otherwise on the advertised closing date i.e. 02.04.2021 they were not, if the preliminary examination had been held as originally scheduled.

4. The Commission has decided to treat the same as the cut-off date for determining the eligibility for conducting the preliminary examination, as was stated in advertisement earlier, wherein the number of posts advertised also remain the same.

5. On advance service, learned State counsel and learned counsel for the respondent-Commission appear and have sought instructions.

6. I have heard the competing contentions of the learned counsels.

7. Petitioners rely heavily on seeking the issuance of the aforesaid writ premised on a precedent arising in somewhat similar circumstances when the examination for Haryana Civil Services (Judicial Branch) which was advertised on 20.03.2017 and pursuant thereto, even the preliminary examination held on 16.07.2017, was later cancelled, owing to certain

discrepancies, which were discovered by the Commission on a complaint made by certain candidates. Based on a decision taken by the competent authorities, subsequently a corrigendum dated 27.08.2018 was issued inviting fresh applications even from those candidates who in the interregnum had become eligible. Backed up with the aforesaid, petitioners assert through their counsels that even in the present case, given the long interregnum of almost a year, the benefit to those who have become eligible in the meanwhile ought to be given. The applications of the petitioners be, therefore, entertained for taking the preliminary examination as they claim to be now fully eligible, provided, cut-off date is extended by the Commission.

8. Per contra, all the petitions are strongly opposed by learned opposite counsels. They have drawn my attention to the peculiar circumstances in which the fresh applications were decided to be entertained in the case of HCS (Judicial Branch) examination. Learned counsels appearing for the Commission as well as State submit that owing to the scrapping of vertical reservation in Economically Backward Persons in General Category (EBPGC), the posts which were meant for the said category, were decided to be merged into the General category, resulting in an increase in the number of posts meant for General category.

9. First, let us advert to the alleged parity which the petitioners are claiming with the precedent of HCS (Judicial Branch) examination. It is borne out that there was a variation in the number of posts when the fresh advertisement was issued. In fact, in real sense, it was really not a corrigendum, but entirely a fresh process and a new advertisement in that sense, which also included an increase in the number of General category

posts as noted hereinabove. In the premise, being a fresh process altogether, it was considered expedient and also in the interest of all those candidates who have become eligible in the interregnum, that fresh applications were invited. Clearly, it is not so herein, since it is only an announcement in continuation of the earlier advertisement and, therefore, cannot be construed as a fresh process initiated pursuant to any fresh advertisement.

10. As regards any violation of the statutory provisions, none has been pointed out by any of the learned counsels appearing on behalf of the petitioners. On the contrary, shoe is on the other foot, as statutory provisions provide otherwise. Reference may be had to Rule 12(2)(a) of the Haryana Civil Services (Executive Branch) Rules, 2008 as below:

“No person shall be allowed to sit in the examination-

(a) Who is less than twenty-one years or more than forty years of age or such age limit as may from time to time be fixed by Government for entry into service, on or before the first day of January next preceding the last date appointed by the Commission for the submission of applications.”

11. A perusal of the above Rule leaves no room for ambiguity. It clearly envisages that eligibility *qua* the age is to be determined on or before the first day of January in the year the advertisement is published. Herein, the advertisement was published in 2021 and therefore, the cut-off date has rightly been taken in year 2021 *vis-à-vis* eligibility of age. Any writ of mandamus or certiorari, if issued as sought by petitioners, would be in contravention thereof.

12. Also I am in agreement with the argument canvassed by the learned counsel for the respondent-HPSC that in matters of determining the cut-off date in any competitive examination, there has to be certain inherent

randomness to fix a particular date or else it would always give rise to unnecessary confusion. By each day, many of the candidates become eligible either by virtue of their age or by virtue of their academic qualification and/or obtaining degrees, as the case may be, and therefore, the ever-shifting dates would result not only in discrimination but also leave a lot of room for interplay, to make certain candidates either eligible who are younger in age or ineligible who are older in age.

13. In the peculiar premise, writ petitions are dismissed.

14. In the parting I may hasten to add that I am informed in the course of hearing that the Government/ Commission is at an advance stage of determining the number of vacancies which have arisen in the meanwhile or are likely to be filled up after the previous advertisement and necessary steps in that direction are being taken to issue a fresh advertisement. In the entirety of situation, needless to say petitioners are not visited with any harshness on equity as they are free to compete *qua* the proposed new recruitment which seems to be round the corner. On the other hand, it will be rather inequitable to many of those candidates who are not before this Court and would be eligible, in case the petitions are allowed.

15. No grounds to interfere are made out. Dismissed.

(ARUN MONGA)
JUDGE

June 02, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No