

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

224

LPA-1356-2019

Decided on : 13.05.2022

Haryana Staff Selection Commission	...	Appellant
	Versus	
Barkha Ram and others		... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present: Mr.Hitesh Pandit, Addl.A.G., Haryana, for the appellant.

Mr.V.D.Sharma, Advocate, for respondent No.1.

G.S. Sandhawalia, J. (Oral)

Challenge in the present Letters Patent Appeal is to the impugned order dated 19.03.2019 passed by the learned Single Judge in CWP-24363-2018.

The learned Single Judge issued directions recommending the case of the petitioner for the post of TGT (Science) under the BCB Category for appointment. The cut-off for the said category was 108 marks for the 11 posts which would be clear from the result dated 14.09.2018 (Annexure P-5 of the writ petition) on the basis of which the candidates had been called for interview. However, the learned Single Judge, keeping in view the fact that interim orders had been passed, added 18 marks of experience and 16 marks of viva-voce, to come to the conclusion that total marks were 138, which was more than the last candidate i.e. 129. The said procedure is not tenable since admittedly the benefit of experience had to be granted only after the person had been called for interview and had to make the cut-off on the basis of the written examination but had only secured 104 marks.

The said position has been settled by us in LPA-2207-2017 titled *State of Haryana through its Secretary (Legal), Haryana Staff Selection Commission Vs. Subhash Chander & others*, decided on 11.05.2022, that it is for the Commission to fix the criteria and not for the learned Single Judge to change the same, in view of the advertisement which would be binding upon the candidates. The relevant portion of the judgment reads as under:

“23. The stand of the State has already been examined, which is now reiterated by filing of an affidavit by the Secretary of the Commission. It has been demonstrated by giving weightage as such of the experience, if it is to be considered at an earlier point of time, it would amount to exclusion of meritorious people from the zone of consideration, merely because of 8% of the marks to be awarded. In such circumstances, it was for the expert body and the recruiting agency as such to see whether they wanted persons with experience or they wanted one with merits.

24. A perusal of the advertisement would also go on to show that the eligibility criteria of age was also from 18 years to 42 years and, therefore, even the persons with experience had been brought within the zone of consideration and the benefit of experience was to be granted, but it could not be said that it would be at the cost of merit. The view of the expert body was thus never taken into consideration, which in the opinion of this Court was not justified in the facts and circumstances.”

While issuing notice of motion on 29.08.2019, it was also ordered that the case was to be tagged with LPA-2207-2017. As noticed earlier, the said appeal has been decided on 11.05.2022 in favour of the State.

Accordingly, keeping in view the above, since the issue stands decided by the considered view of this Court, the present appeal is allowed and the judgment of the learned Single Judge dated 19.03.2019 is set aside.

(G.S.SANDHAWALIA)
JUDGE

May 13, 2022
sailesh

(VIKAS SURI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No