

LPA No.1434 of 2019 (O&M)

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

LPA No.1434 of 2019 (O&M)

Date of decision:23.12.2022

Reserved on: 15.12.2022

Amit Kumar ...Appellant

Versus

State of Haryana and others ...Respondents

**Coram: Hon'ble Mr. Justice G.S. Sandhawalia
Hon'ble Ms. Justice Harpreet Kaur Jeewan**

**Present: Mr. Sumit Sangwan, Advocate,
for the appellant.**

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

Mr. Ajay Sharma, Advocate,
for respondent no.5-Kurukshetra University.

G.S.Sandhawalia, J.

The challenge raised herein in this intra-court appeal by the unsuccessful writ petitioner-appellant is to the order of the learned Single Judge passed in CWP No.2683 of 2019 titled as “**Amit Kumar vs. The State of Haryana and others**”, decided on 18.07.2019.

The learned Single Judge came to the conclusion that the writ petitioner-appellant secured 110 marks out of 160 marks in the written examination held for the post of PGT Mathematics (General Category) and the last candidate had secured 116 marks but the writ petitioner-appellant was not held entitled for appointment to the said post on account of the fact that though he had appeared in the scrutiny of documents but his result of M.Sc. Mathematics was declared on 25.10.2016 by the University and the cut off date was of 12.10.2015 for the said purpose, as contended by the

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learned State counsel. Thus, holding him not eligible on the last date of submission of application while placing reliance on the terms of the advertisement as such, it is accordingly noticed that the essential qualification was acquired by him on 13.07.2016, which is after the cut off date and, thus, while placing reliance on the judgment of the Apex Court in the case of **Rakesh Kumar Sharma vs. Govt. of NCT of Delhi & Ors.**, 2013(11) SCC 58, the writ petition was dismissed.

Counsel for the appellant has relied upon the judgment of the Apex Court in the case of **Haryana Staff Selection Commission vs. Priyanka & Ors. Etc. Etc.**, 2021(4) S.C.T. 80 to submit that only the consolidated DMC (Detailed Mark Certificate) had been issued after the cut off date and, therefore, the Detailed Mark Certificate for the M.Sc. (Mathematics) for the 4th semester, which had been issued well before the cut off date, should be considered. The concerned University had also given a certificate (Annexure P-18) showing that he had passed all the four semesters till 29.04.2015 and, thus, submitted that merely on account of delay on the part of the University, it would not adversely prejudice his case.

Mr. Hitesh Pandit, learned State counsel has vehemently submitted that the 4th semester DMC of M.Sc. (Mathematics) of the appellant would go on to show that it was dated 29.04.2015 (Annexure P-10) but it was only provisional pass certificate, as mentioned in the DMC. Therefore, it was argued that the Commission was justified in rejecting his candidature and declaring him ineligible. The reference was also made to the said certificate dated 13.07.2016 (Annexure P-11 to show that the grand total of marks obtained by the appellant was 1344 out of 2400, whereas in his application form, which he has filled, would go on to show that the grand

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total was 1337 out of 2400. It is accordingly sought to be justified that even his 2nd semester DMC would go on to show that he was granted grace marks and similar was the position in the 3rd semester as such whereby in his DMC, it was mentioned that he had passed the examination provisionally. Thus, it is submitted that there were valid reasons for not treating him eligible as he did not have the requisite qualification on the cut off date.

A perusal of the paper book would go on to show that the writ petitioner-appellant filed the writ petition on the strength that the result of all the semesters have already been published and separate DMCs of each semester had been issued before the cut off date. Therefore, he claimed he should be considered eligible and his name should have been recommended for appointment with all consequential benefits.

The advertisement in question dated 28.06.2015 (Annexure P-12) initially fixed the cutoff date as 21.09.2015, wherein 6784 posts of (PGT)-H.E.S.-II (Group-B Services) were advertised. 1427 posts were advertised for PGT Mathematics, out of which 624 were unreserved in category No.10, with which we are concerned. The essential qualifications for the said post reads as under:-

***“Cat.No.10 1427 posts (Included 181 Post of Backlog of
SC) of PGT Mathematics***

*E.Q. M.A. Mathematics/M.Sc. Mathematics/Applied
Mathematics with Mathematics as one of the subject at
Graduation level with at least 50% marks and B.Ed. from
recognized University.”*

Vide application Annexure P-13, the writ petitioner filled his form for the said post showing that he had the necessary qualification including being HTET pass which is also one of the requirements. He

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showed that he had passed his M.Sc. Mathematics in the year 2015 from Kurukshetra University, Kurukshetra and had secured 1337 marks out of 2400 marks. As per his pleaded case, he had been given admit card for the screening test which was held on 06.03.2016 and vide Roll No.61001060, he participated in the screening test and secured 110 marks out of 160. He had been called for scrutiny of documents/interview on 07.11.2016 as per the result declared on 17.10.2016 (Annexure P-14). The admit card for the interview has been appended as Annexure P-15 to show that he was called for the same. He had shown the documents which were duly verified by the Interviewing Committee and eventually result was declared on 12.01.2019 for 610 posts of PGT (Mathematics), in which the last candidate in the General Category secured 116 marks but roll number of the appellant does not figure in the said result. Accordingly, he approached respondent no.3-Commission on 18.01.2019 and was orally informed that since his DMC of M.Sc. Mathematics had been issued after the last date of submission of application form, therefore, his candidature has been rejected. He accordingly submitted detailed representation on 18.01.2019 (Annexure P-17) that he had got a certificate from the University to the effect that he had passed all the four semesters by 29.04.2015 separately but his consolidated DMC of M.Sc. Mathematics of the 4th semester of December 2014 was issued on 13.07.2016 as per the office records but of no avail. Resultantly, he filed the writ petition on the strength that all his DMCs show that he had passed all the four semesters before the last date of submission of his application form and, therefore, he was wrongly not considered.

Perusal of the writ petition would also go on to show that the discrepancy as such of having passed the examination provisionally, on

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account of which his case has been rejected as such, was on account of the fact that apparently he passed his 1st semester examination subsequently as he had already passed his 2nd semester examination on 10.05.2013 and his 3rd semester examination on 26.09.2013, whereas he had passed his 1st semester examination only on 20.06.2014. The details of his passing the said semesters are given in the chart below:-

<i>Sr. No.</i>	<i>Semester</i>	<i>Marks</i>	<i>Date of Declaration of Result</i>
1.	First	333/600	20.06.2014/02.02.2015
2.	Second	316/600	10.05.2013
3.	Third	348/600	26.09.2013
4.	Fourth	346/600	29.04.2015

It is apparently on this account, his 2nd semester result showed him pass provisionally and same was the position in the 3rd semester also that he had showed passed it provisionally which fact was also incorporated in the 4th semester DMC as well. However, a closure perusal of the DMCs of all the four semesters would go on to show that he had secured 327, 316, 348 and 347 in all the four semesters respectively and it was on that strength that he had filled up his application form in which he had showed that he had obtained 1337 marks out of 2400 marks. Merely because of the reason that his consolidated DMC was issued on 13.07.2016, after the cut off date, which showed the consolidated marks obtained in the first three semesters and the improvement in the first semester to 333 marks alongwith the last 4th semester marks as 1344, he has been declared ineligible. Thus, apparently, he had passed his 4th semester examination in Dec. 2014 and the DMC of the 4th semester was issued on 29.04.2015, which was well before the cut off

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date i.e. 21.09.2015 and also before the extended cut off date i.e. 12.10.2015.

The certificate obtained from the relevant University arrayed as respondent No.5 would also go on to authenticate the said fact and reads as under:-

“Kurukshetra University Kurukshetra
(Established by the State Legislature Act-XII of 1956)
(‘A+’ Grade, NAAC Accredited)

TO WHOM IT MAY CONCERN

This is certified that Mr. Amit Kumar S/o Sh. Baru Singh was the student of M.Sc. Mathematics Course under this University having registration No.07-GH-235. He has passed all the four semesters till 29.04.2015 separately and his consolidated DMC of M.Sc. Mathematics 4th semester Dec. 2014 vide Roll no.803524 issued on 13.07.2016 as per office records.

Sd/-
Deputy Registrar (R-I)
Kurukshetra University
KURUKSHETRA-136119”

He had appended the aforesaid certificate with his representation dated 18.01.2019 but of no avail and, thus, had to file the writ petition in January 2019, which has accordingly been dismissed.

The Apex Court in ***Priyanka’s case (supra)*** was dealing with the case where provisional confidential result was provided to the candidates prior to the last date of submission of applications and who had applied for the post of Post Graduate Teachers. The Commission had rejected their candidature on the ground that the result had not been officially declared by the respective Universities prior to the cut off date, which was also 12.10.2015 in that case and pertaining to the same advertisement dated 28.06.2015.

Learned Single Judge of this Court had allowed the writ petitions which order was upheld by the Division Bench, which was subject matter of challenge before the Apex Court. The Apex Court came to the

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conclusion that once the authenticity of the provisional result is not in doubt, it could not be said that the respondents were not qualified on the cut off date. The view taken that it was validly declared result would be justified.

Relevant portion of the said judgment reads as under:-

“The short question which was raised before the High Court and also before us is as to whether the provisional/confidential result declared by the Universities would be a validly declared result or not. The question has been considered by the High Court in detail and it has been held in favour of the candidates. In our view also, as long as the authenticity of the provisional/confidential result declared by the Universities is not in doubt, which in the present case has been confirmed by the Universities on the request made by the appellant/commission, the view taken by the High Court is perfectly justified. It cannot be said that the respondents were not qualified as on the cut off date, which was 12.10.2015, as the provisional/confidential result had been declared by the respective Universities in favour of the candidates prior to the said date and the applications were filed by the respondents well within time, along with such provisional/confidential result. As such, to this extent, we are not inclined to interfere with the order impugned in these appeals.”

Keeping in view the above settled position and as noticed above, once there is authentication of the University itself, which has also been arrayed as respondent no.5 in this appeal and filed its reply, that the petitioner had passed all his four examinations till 29.04.2015 separately and also confirmed validity of the certificate issued on 17.01.2019 reproduced above, the benefit has necessarily to flow in favour of the writ petitioner-appellant. It is also relevant to note that at the time of issuing notice in the present appeal on 19.08.2019, the Coordinate Bench as such had kept one post of PGT (Mathematics) of the General Category reserved till final disposal of the appeal.

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Resultantly the present appeal is allowed and order of the learned Single Judge is set aside. The writ petition is accordingly allowed and the directions are issued to the respondent-Commission that in case the petitioner has met the necessary cut after counting his marks secured in the written examination and the interview and if he is placed higher than the last candidate recommended for appointment, his name be forwarded to the State Government for appointment within a period of four weeks from the date of receipt of certified copy of this order.

The State Government then shall issue the necessary appointment letter in favour of the writ petitioner-appellant. The appellant shall be entitled to all the notional benefits from the date the last candidate had been appointed in the selection in question and be given all the necessary benefits except the financial benefits of back wages since he has not worked on the said post for the aforesaid period.

The appeal is accordingly allowed in the aforesaid terms.

(G.S. Sandhawalia)
Judge

December 23, 2022
Vinod/shivani

(Harpreet Kaur Jeewan)
Judge

Whether speaking/reasoned: Yes

Whether Reportable: Yes