

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

**LPA-68-2018 (O&M)**

Haryana Staff Selection Commission

.....Appellant(s)

Versus

Meenakshi Gupta

.....Respondent(s)

**(2)**

**LPA-428-2018 (O&M)**

Santra & others

.....Appellant(s)

Versus

State of Haryana & another

.....Respondent(s)

**(3)**

**LPA-955-2018 (O&M)**

Haryana Staff Selection Commission

.....Appellant(s)

Versus

Nisha Rani & another

.....Respondent(s)

**Decided on :17.11.2022**

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA  
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr.Hitesh Pandit, Addl.A.G., Haryana  
for the appellant in LPA-68 & 955-2018.

Mr.Sumit Sangwan, Advocate,  
for the appellants in LPA-428-2018.

Mr.Arvind Bansal, Advocate,  
for respondent No.1 in LPA-68-2018.

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**G.S. Sandhawalia, J. (Oral)****CM-2546-LPA-2018 in LPA-955-2018**

Application for condonation of delay of 78 days in refiling the appeal is allowed, in view of the averments made in the application, duly supported by affidavit of the official. Delay of 78 days in refiling the appeal is hereby condoned.

CM stands disposed of.

**CM-2547-LPA-2018 in LPA-955-2018**

Application for condonation of delay of 26 days in filing the appeal is allowed, in view of the averments made in the application, duly supported by affidavit of the official. Delay of 26 days in filing the appeal is hereby condoned.

CM stands disposed of.

**LPA-68, 428 & 955-2018 (O&M)**

Challenge in LPA-68-2018, filed by the State, is to the order dated 08.11.2017 passed in CWP-18873-2017 titled *Meenakshi Gupta Vs. State of Haryana & another*, wherein directions had been issued to firstly add the marks of experience and then call the candidates for interview. Resultantly, notice dated 11.08.2017 (Annexure P-6) had been challenged wherein candidates for the posts of Staff Nurses were called equal to twice the number of vacancies vide advertisement No.1 of 2015 dated 19.06.2015, Category-1 (Annexure P-1).

Similarly, in LPA-955-2018, challenge is to the order dated 20.12.2017, passed in CWP-18831-2017 titled *Nisha Rani Vs. State of Haryana & another*, which also deals with the same advertisement. The learned Single Judge in principle relied upon the judgment passed by him in CWP-18921-2017 titled *Subhash Chander & others Vs. Haryana Staff Selection Commission*, decided on 14.09.2017 to grant the necessary relief.

In LPA-428-2018, which has been filed by the appellants against the dismissal of CWP-5011-2018 titled *Santra & others Vs. State of Haryana & others* dated 01.03.2018, another learned Single Judge did not agree with the said proposition that marks for experience are to be added prior to calling for the interview to make the necessary cut. The reasoning was that the Government is free to adopt the criteria and that the younger lot would have a handicap if the experience is added at the initial stage and therefore, both of them have to have a right to equal opportunity under Article 16(1) of the Constitution of India. It was also observed that merit takes precedence over experience and after the result of both the written test and interview is known, only then marks for experience would be added to finalize the result and keeping in mind the confidentiality of the selection process at the time of assigning marks for interview. Accordingly, the writ petition was dismissed and resultantly, being unsatisfied, the candidates are before this Court.

We have already dealt with the issue in the appeal filed by the State bearing LPA-2207-2017 titled *State of Haryana through its Secretary (Legal), Haryana Staff Selection Commission Vs. Subhash Chander and others*, decided on 11.05.2022, wherein we came to a contrary conclusion that candidates who have done well in the written test

were pushed out of zone of consideration without even calling for the response. It was held that it is a matter of policy decision and it is not for this Court to superimpose its opinion and the view of the expert body was to be taken into consideration and it is for the recruiting agency whether they wanted persons with experience or with merits. Resultantly, we had allowed the appeals and dismissed the writ petitions.

In such circumstances, we are of the considered opinion that LPA-68-2018 and LPA-955-2018 filed by the State have to be allowed, in view of the reasoning given and being covered by LPA-2207-2017 since even the learned Single Judge had relied upon that order which no longer stands. LPA-428-2019 filed by the candidates wherein another learned Single Judge has taken a similar view which we have also taken, is accordingly, dismissed.

**(G.S. SANDHAWALIA)**  
**JUDGE**

**(HARPREET KAUR JEEWAN)**  
**JUDGE**

**17.11.2022**  
*sailesh*

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