

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

211 (2 cases)

1.

LPA-859-2018(O&M)

Date of Decision: 26.08.2022

Institute of Banking Personnel Selection Appellant

Versus

Teena Mehta and another Respondents

2.

LPA-983-2018 (O&M)

Institute of Banking Personnel Selection Appellant

Versus

Sandeep Kumar and others Respondents

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Aayush Gupta, Advocate
for the petitioner.

Mr. R.S.Bhatia, Advocate
for respondent No.2.

None for contesting respondent.

G.S.SANDHAWALIA, J. (Oral)

The present appeals are directed against the order of learned Single Judge whereby writ petitions were allowed vide order dated 01.02.2018 passed in CWP No.26090 of 2015 and CWP No.25546 of 2015.

None has appeared for the contesting respondent inspite of service.

In principle, learned Single Judge directed the appellant herein to consider the case for purpose of selection and appointment to the post of Office Assistant (Multipurpose), since the necessary certificates had not

been furnished at the time of interview on the ground in the form of final certificate of graduation. The learned Single Judge was of the view that in view of ratio of the Supreme Court in case of **Ram Kumar Gijroya vs. Delhi Subordinate Services Selection Board and another,(2016) 4 SCC, 754**, the benefit was liable to be granted and consideration should have been done.

Counsel has pointed out that an objection was taken regarding maintainability of the writ petition, which was not addressed by the learned Single Judge. Reliance is placed upon a judgement of the Apex Court in **Rajbir Surajbhan Singh vs. Chairman, Institue of Banking Personnel Selection, Mumbai, 2019(14) SCC 189** to point out that it has been held that the appellant is not a State within the meaning of Article 12 of the Constitution of India, therefore, the writ petition was not maintainable. The relevant part of the judgment reads as under :-

“14.The Respondent-Institute has been set up for the purpose of conducting recruitment for appointment to various posts in Public Sector Banks and other financial institutions. Applying the tests mentioned above, we are of the opinion that the High Court is right in holding that the Writ Petition is not maintainable against the Respondent. Conducting recruitment tests for appointment in banking and other financial institutions, is not a public duty. The Respondent is not a creature of a statute and there are no statutory duties or obligations imposed on the Respondent.”

It is also pointed out that a Co-ordinate Bench in LPA No.1597 of

others' decided on 11.11.2020 has also allowed the LPA by holding that the writ petition is not maintainable by giving liberty to the writ petitioners to avail of the alternative remedy in accordance with law.

Keeping in view the above, since the said issue has never addressed and the law is settled by the Apex Court, we also allow the appeals by holding that the writ petitions are not maintainable at the first instance. The order of the learned Single Judge, accordingly, is set aside and liberty is given to the petitioner to avail their alternate remedy.

(G.S.SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

26.08.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>