

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-535-2024 (O&M)

Date of decision:- 27.02.2024

Haryana Staff Selection Commission, Panchkula.

...Appellant(s)

Versus

Shuchi Goel and others

...Respondent(s)

CORAM: **HON'BLE MR. JUSTICE G.S. SANDHAWALIA, ACTING CHIEF JUSTICE**
HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Mr. Deepak Balyan, Additional Advocate General, Haryana,
for the appellant.

Mr. Laxman Choudhary, Advocate,
for the caveator-respondent No. 1.

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G.S. SANDHAWALIA, A.C.J. (ORAL)

CM-1310-LPA-2024

For the reasons mentioned therein, the delay of 38 days in filing
the appeal is condoned.

The application stands disposed of.

LPA-535-2024

1. The present appeal by the State of Haryana seeks consideration of
the order dated 07.11.2023 passed by the learned Single Judge in
CWP-1145-2019, whereby directions have been issued to consider the case for
appointment on the Ex-servicemen (ESM) category for the post of PGT
Commerce (Rest of Haryana Cadre) in order of merit pursuant to
Advertisement No. 04 of 2015 with all consequential benefits including

seniority. The benefits were to be given notionally from the date of appointment till the actual date of joining the service.

2. The reasons for the directions being issued were that the writ petitioner (caveator- respondent No. 1 herein) belonged to the Dependent of Freedom Fighter (DFF) category and accordingly had applied in pursuance of the said advertisement No. 4 of 2015 against the seventeen posts which were firstly ear-marked for ESM category. The said persons were called for interview on 25.12.2018 and it is to be noticed that there was no separate notice for the candidates belonging to DFF category and, therefore, the learned Single Judge had relied upon the instructions of the government that if the posts of ex-servicemen remained unfilled they were to be offered to the freedom fighters and their children/grand-children to the extent of 2%. In such circumstances, the stance of the State of Haryana that respondent No. 1 had failed to appear for interview on 25.12.2018 was rejected while noticing that the non-availability of the eligible candidates of ESM category was only declared on 07.01.2019 and it was only thereafter her case could have been considered. Therefore, the stance of the State of Haryana that she was absent on that date was held to be without any basis. Resultantly, there being positive instructions dated 15.07.2014 (Annexure P-5) in her favour, the necessary directions had been issued.

3. Learned State counsel has tried to convince us while referring to the attendance-sheet dated 25.12.2018 (Annexure R-3/1) to show the absence as such and to co-relate it as such with the notice for interview dated 18.12.2018 (Annexure P-2/A), wherein cut-off was fixed at 46 for the ESM category and respondent No. 1's roll number was mentioned. The result as such of the said category was only announced on 07.01.2019 (Annexure P-4) and twelve roll numbers figured with a cut-off of 56. It is only

thereafter the exercise would have to be carried out to offer the posts to the DFF category as per the instructions for the balance five posts. Thus, her absence or presence on the earlier point was not relevant and the defence of the State of Haryana cannot be justified in any manner. The selection of candidates in the DFF category could only be made after the candidates in ESM category had not joined or there were not requisite number of candidates in the ESM category. The said exercise was never carried out by the State of Haryana and she was never put to notice that there were any vacancies and she was eligible for consideration.

4. In such circumstances, the order of the learned Single Judge does not warrant any interference.
5. The appeal being meritless, accordingly, stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

27.02.2024
Amodh Sharma

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No