



2024 : DHC : 7928-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 1021/2024, CM APPLs. 59926/2024, 59927/2024 & 59928/2024

VANSHIKA DHINGRA AND ORSAppellants
Through: Mr. Rajesh Chauhan, Adv.

versus

SHUBHAM PAL AND ORSRespondents
Through: Mr. Ankur Chhibber, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MS. JUSTICE SHALINDER KAUR

JUDGMENT (ORAL)

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09.10.2024

C.HARI SHANKAR, J.

1. This appeal, according to this Court, is abuse of process.
2. Certain candidates, who had appeared in an examination conducted by the Staff Selection Commission¹ on 26 October 2023 for recruitment to posts in Central Government services, filed WP (C) 16593/2023 before this Court. The writ petition assailed the correctness of the final answer keys released by the SSC in respect of seven questions. A learned Single Judge, in his judgment dated 16 February 2024, upheld the challenge in respect of one question and rejected the challenge in respect of the remaining six questions.

¹ "SSC" hereinafter



3. The petitioner, we may note, was not a party in WP (C) 16593/2023.

4. To the extent the challenge was rejected, the unsuccessful candidates filed LPA 202/2024. By a detailed judgment, the Coordinate Division Bench of this Court dismissed the said LPA on 27 May 2024, affirming the judgment of the learned Single Judge to reject the challenge to six of the seven questions.

5. Against the upholding, by the learned Single Judge, of the challenge raised by the respondents with respect to one question, the SSC filed LPA 319/2024.

6. Before being apprised of the order dated 27 May 2024 passed by the Coordinate Bench in LPA 202/2024, we had initially expressed misgivings about whether the writ petition was at all maintainable before this Court in view of the judgment of the seven Judge Bench of the Supreme Court in *L Chandra Kumar v UOI*². We were, and continue to be, of the opinion that the respondents could not have approached this Court as a Court of first instance, and had to petition the learned Central Administrative Tribunal.

7. We were, however, later informed that the decision of the learned Single Judge had been carried in appeal *qua* six questions, by the respondents in LPA 202/2024, *which stood dismissed on merits* by a detailed judgment dated 27 May 2024 as already noted *supra*.

² (1997) 3 SCC 261



Against the said decision, in fact, some candidates have further petitioned the Supreme Court in Special Leave Petitions in which, too, notice stands issued.

8. In that view of the matter, we noted, in our order dated 4 October 2024, that it was not possible to set the clock back and that we were constrained to decide LPA 319/2024 of the SSC on merits.

9. We had heard the SSC and the respondents in LPA 319/2024 at length and have dismissed the LPA filed by the SSC *vide* our judgment dated 27 May 2024, finding no fault with the decision of the learned Single Judge to allow the respondents' challenge to one question.

10. Now, the appellant, who was never a party before the learned Single Judge but who claims to be affected by the judgment dated 16 February 2024 rendered by him, has preferred the present LPA, assailing the judgment of the learned Single Judge on merits as well as on maintainability, relying, for the purpose, on ***L Chandra Kumar***.

11. We are unable to believe that the appellant was completely unaware of the proceedings before the learned Single Judge. It appears to us that the appellant is essentially a fence sitter who was waiting to see what was happening before the learned Single Judge and before this Court and has now approached the Court and, having found that the decision of the learned Single Judge stands affirmed in LPA on merits, now seeks to ventilate her own individual cause.



12. We would have rested with these observations. Mr. Ankur Chhibber, learned Counsel for the respondents, has, however, drawn our attention to a very disquieting feature of this case. He points out that, in fact, the appellants had earlier filed LPA 437/2024, challenging the order dated 16 July 2024 of the learned Single Judge, which the appellant withdrew on 3 July 2024 *in view of the judgment passed by the Coordinate Division Bench on 27 May 2024 in LPA 202/2024*.

13. The order dated 3 July 2024 reads thus:

“1. Learned counsel appearing for the appellants seek permission to withdraw these appeals in view of decision of this Court in order dated 27.05.2024 in LPA 202/2024.

2. Accordingly, the appeals are dismissed as withdrawn.”

14. In other words, the appellants were conscious – as were we – that, with the decision of the learned Single Judge having merged in the judgment of the Division Bench in LPA 202/2024, the plea of maintainability of the writ petition did not, therefore, really survive for meaningful consideration.

15. The appellants, thereafter, filed CM Appl.55905/2024 seeking modification of the order dated 3 July 2024 passed in LPA 437/2024. The said application was also dismissed by the Division Bench *vide* order dated 23 September 2024. On the same day, the appellants *once again withdrew* LPA 437/2024 – it defeats comprehension as to how the LPA was withdrawn twice – with liberty to take steps as per law, if so advised.



16. Piggybacking on the said liberty, the appellants have now preferred the present LPA re-agitating the issues which were raised in LPA 437/2024.

17. Mr. Rajesh Chauhan, learned Counsel for the appellants submits that, this LPA is maintainable in view of the liberty granted by the Division Bench on 23 September 2024.

18. We are unable to agree. LPA 437/2024 was unconditionally withdrawn by the appellant on 3 July 2024. The fact that the judgment dated 27 May 2024 of the Coordinate Division Bench in LPA 202/2024 was cited as a ground for withdrawal indicates that the appellants were conscious of the fact that, as the judgment of the learned Single Judge had merged with the judgment of the Division Bench in LPA 202/2024, it would be futile to now raise the issue of maintainability.

19. In clear abuse of the legal process, the appellants thereafter moved CM 55905/2024 seeking a modification of the order dated 3 July 2024. That application was also dismissed. Simultaneously, the appellants *again* withdrew LPA 437/2024, which already stood withdrawn on 3 July 2024, on 23 September 2024, this time “with liberty to take steps as per law, if so advised”.

20. This “liberty”, according to the appellants, *again* entitles the appellants to approach this Court in LPA.



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21. This is nothing other than sheer abuse of process of Court. The appellants had already withdrawn LPA 437/2024 in view of the judgment of the Coordinate Bench in LPA 202/2024. Any meaningful exploitation of the liberty granted on 23 September 2024 may be by way of other proceedings. It is not for this Court to advise the appellants. The liberty granted on 23 September 2024 certainly did not entitle the appellants to again institute the present LPA after having withdrawn LPA 437/2024. The dice must stop rolling at some point.

22. We could have dismissed this LPA as not surviving for consideration in view of our judgment dated 27 May 2024 in LPA 202/2024. However, in view of the above sequence of proceedings, to which Mr. Chhibber drew our attention, we are further constrained to dismiss this LPA as an example of blatant abuse of process of law.

23. We, therefore, to dismiss this LPA *in limine* with costs, quantified at ₹ 25,000, to be paid by way of a crossed cheque favouring the account of the Armed Forces Battle Casualties Welfare Fund, Canara Bank, A/c No. 90552010165915, to be deposited with the Registry of this Court within a period of two weeks from today.

C.HARI SHANKAR, J.

SHALINDER KAUR, J.

OCTOBER 9, 2024

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Click here to check corrigendum, if any