



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Pronounced on: 19.02.2025

- 1)

CWP No.16273 of 2023

Neelam

Versus

State of Haryana and others

.... Petitioner

... Respondents
- 2)

CWP No.19485 of 2023

Narender Singh and others

Versus

State of Haryana and others

.... Petitioners

... Respondents
- 3)

CWP No.1100 of 2023

Dilbag and another

Versus

State of Haryana and others

.... Petitioners

... Respondents
- 4)

CWP No.11135 of 2024

Om Parkash and another

Versus

State of Haryana and others

.... Petitioners

... Respondents
- 5)

CWP No.1151 of 2024

Preeti Malik and another

Versus

State of Haryana and others

.... Petitioners

... Respondents
- 6)

CWP No.12688 of 2024

Jaivir

Versus

State of Haryana and others

.... Petitioner

... Respondents



- 7)

CWP No.17326 of 2023

Dinesh Kumar and another

Versus

State of Haryana and others

.... Petitioners

... Respondents
- 8)

CWP No.17786 of 2023

Dayavanti

Versus

State of Haryana and others

.... Petitioner

... Respondents
- 9)

CWP No.18040 of 2023

Dimple Rani

Versus

State of Haryana and others

.... Petitioner

... Respondents
- 10)

CWP No.18061 of 2023

Monika

Versus

State of Haryana and others

.... Petitioner

... Respondents
- 11)

CWP No.18227 of 2023

Surender Kumar

Versus

State of Haryana and others

.... Petitioner

... Respondents
- 12)

CWP No.1856 of 2024

Harjit Singh and others

Versus

State of Haryana and others

.... Petitioners

... Respondents
- 13)

CWP No.18947 of 2023

Kuldeep Kumar

Versus

State of Haryana and others

.... Petitioner

... Respondents



14)	CWP No.1920 of 2024	
Satish and others		 Petitioners
	Versus	
State of Haryana and others		... Respondents
15)	CWP No.19589 of 2023	
Vijay Pal and others		 Petitioners
	Versus	
State of Haryana and others		... Respondents
16)	CWP No.20809 of 2023	
Nihal Singh		 Petitioner
	Versus	
State of Haryana and others		... Respondents
17)	CWP No.21248 of 2023	
Jaswinder Singh and others		 Petitioners
	Versus	
State of Haryana and others		... Respondents
18)	CWP No.23442 of 2023	
Luxmi Devi and others		 Petitioners
	Versus	
State of Haryana and others		... Respondents
19)	CWP No.19650 of 2023	
Randhir Singh and others		 Petitioners
	Versus	
State of Haryana and others		... Respondents
20)	CWP No.20599 of 2023	
Mohd. Yunus		 Petitioner
	Versus	
State of Haryana and others		... Respondents



21)	CWP No.20825 of 2023	
Veena Kumari and others		 Petitioners
	Versus	
State of Haryana and others		... Respondents
22)	CWP No.21621 of 2023	
Geeta Rani and another		 Petitioners
	Versus	
State of Haryana and others		... Respondents
23)	CWP No.21937 of 2023	
Manju Bala and others		 Petitioners
	Versus	
State of Haryana and others		... Respondents
24)	CWP No.21966 of 2023	
Sukhmander Singh and others		 Petitioners
	Versus	
State of Haryana and others		... Respondents
25)	CWP No.21973 of 2023	
Radha Yadav and others		 Petitioners
	Versus	
State of Haryana and others		... Respondents
26)	CWP No.22025 of 2023	
Dhian Singh and others		 Petitioners
	Versus	
State of Haryana and others		... Respondents
27)	CWP No.22046 of 2023	
Ashok Kumar and others		 Petitioners
	Versus	
State of Haryana and others		... Respondents



28)	CWP No.22119 of 2023	
Armender and others	Versus	 Petitioners
State of Haryana and others		... Respondents
29)	CWP No.2110 of 2024	
Navin Kumar	Versus	 Petitioner
Haryana Staff Selection Commission and others		... Respondents
30)	CWP No.21228 of 2023	
Navneet Kaushik and others	Versus	 Petitioners
State of Haryana and others		... Respondents
31)	CWP No.2170 of 2024	
Kiran Singh and others	Versus	 Petitioners
State of Haryana and others		... Respondents
32)	CWP No.2172 of 2024	
Ashok Kumar and others	Versus	 Petitioners
State of Haryana and others		... Respondents
33)	CWP No.2177 of 2024	
Manisha and another	Versus	 Petitioners
State of Haryana and others		... Respondents
34)	CWP No.2201 of 2024	
Urmila Devi	Versus	 Petitioner
State of Haryana and others		... Respondents



35)	CWP No.2255 of 2024	
Vishal Kumar and others	Versus	 Petitioners
State of Haryana and others		... Respondents
36)	CWP No.2409 of 2024	
Anju Gupta and others	Versus	 Petitioners
State of Haryana and others		... Respondents
37)	CWP No.3009 of 2024	
Seema	Versus	 Petitioner
State of Haryana and others		... Respondents
38)	CWP No.3186 of 2024	
Bhagirath and others	Versus	 Petitioners
State of Haryana and others		... Respondents
39)	CWP No.21786 of 2023	
Narinder Singh and others	Versus	 Petitioners
State of Haryana and others		... Respondents
40)	CWP No.22477 of 2023	
Ajay Kumar and others	Versus	 Petitioners
State of Haryana and others		... Respondents
41)	CWP No.22827 of 2023	
Ajay Kumar and others	Versus	 Petitioners
State of Haryana and others		... Respondents



42)	CWP No.24622 of 2023	
Usha Devi and others	Versus	 Petitioners
State of Haryana and others		... Respondents
43)	CWP No.24819 of 2023	
Mehar Singh and others	Versus	 Petitioners
State of Haryana and others		... Respondents
44)	CWP No.24845 of 2023	
Nathu Puri and others	Versus	 Petitioners
State of Haryana and others		... Respondents
45)	CWP No.29260 of 2024	
Dinesh Kumar	Versus	 Petitioner
State of Haryana and others		... Respondents
46)	CWP No.29359 of 2024	
Kamal Sharma	Versus	 Petitioner
State of Haryana and others		... Respondents
47)	CWP No.26104 of 2023	
Balraj Singh and others	Versus	 Petitioners
State of Haryana and others		... Respondents
48)	CWP No.26106 of 2023	
Pardeep and others	Versus	 Petitioners
State of Haryana and others		... Respondents



49) CWP No.26994 of 2023

Suman Rani Petitioner
Versus
State of Haryana and others ... Respondents

50) CWP No.27350 of 2023

Vishal Kumar and others Petitioners
Versus
State of Haryana and others ... Respondents

51) CWP No.2811 of 2024

Vinod and others Petitioners
Versus
State of Haryana and others ... Respondents

52) CWP No.28346 of 2023

Kamaljeet and others Petitioners
Versus
State of Haryana and others ... Respondents

53) CWP No.28415 of 2023

Surender and others Petitioners
Versus
State of Haryana and others ... Respondents

54) CWP No.28753 of 2023

Bimla Devi and another Petitioners
Versus
State of Haryana and others ... Respondents

55) CWP No.29420 of 2023

Amanpreet Kaur Petitioner
Versus
State of Haryana and others ... Respondents



56)	CWP No.29429 of 2023	
Sarla Devi and others	Versus	 Petitioners
State of Haryana and others		... Respondents
57)	CWP No.728 of 2024	
Annu Berwal and others	Versus	 Petitioners
State of Haryana and others		... Respondents
58)	CWP No.29050 of 2023	
Sukhbir Sharma and others	Versus	 Petitioners
State of Haryana and others		... Respondents
59)	CWP No.3347 of 2024	
Parveen and others	Versus	 Petitioners
State of Haryana and others		... Respondents
60)	CWP No.3594 of 2024	
Renu Kamboj	Versus	 Petitioner
State of Haryana and others		... Respondents
61)	CWP No.29942 of 2024	
Poonam Rani and others	Versus	 Petitioners
State of Haryana and others		... Respondents
62)	CWP No.30530 of 2024	
Nitu Rani and another	Versus	 Petitioners
State of Haryana and others		... Respondents

**63) CWP No.30403 of 2024**

Babita Rani and another

.... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Sanjay Kaushal, Senior Advocate with
Mr. Atul Agarwal, Advocate,
Mr. Vikram Sheoran, Advocate,
Mr. Anurag Sharma, Advocate,
Mr. Ankit Rana, Advocate,
Mr. Pramjeet Singh, Advocate,
Mr. Vinod K. Soni, Advocate,
Mr. Edward Augustine George, Advocate,
Mr. Kuldeep Sheoran, Advocate,
Mr. Ashwani Nagra, Advocate, and
Ms. Mala Singh Nagra, Advocate,
Mr. J.S. Gill, Advocate, and Mr. Amritpal Singh, Advocate,
Mr. Nikhil Kaushik, Advocate,
Mr. Vikas Bishnoi, Advocate,
Mr. Ravinder Bangar, Advocate, and
Ms. Anjali Bangar, Advocate,
Mr. Khalid Tauru, Advocate, for the petitioners.

Ms. Shruti Jain Goyal, Sr. DAG, Haryana,
Mr. Ravinder Singh Budhwar, Addl. A.G. Haryana, and
Ms. Tanushree Gupta, DAG, Haryana.

TRIBHUVAN DAHIYA, J.

The aforementioned petitions are being decided together since common issues on similar facts arise for consideration therein. For brevity, the facts are being taken from CWP No.16273 of 2023, which has been filed seeking a direction to the respondents to issue appointment letter to the petitioner for the post of Art and Craft Teacher against advertisement 6/2006, dated 20.07.2006, on the ground that she has secured more marks than the candidates who have been selected and appointed.



2. Briefly, the facts of the case are:

2.1. The third respondent-Haryana Staff Selection Commission (hereinafter referred to as 'the Commission') issued the aforesaid advertisement inviting applications for 816 posts of Art and Craft Teachers; the closing date for receipt of the applications was 21.08.2006. The requisite qualifications for the post were, Matric with two-year Diploma in Art and Craft and knowledge of Hindi up to Matric standard. The petitioner being eligible applied for the same.

2.2. As per result of the instant selection declared for 816 advertised posts on 14.11.2021, 667 candidates, who possessed Diploma in Art and Craft through distant education mode from the Kurukshetra University, were declared ineligible as their diploma was not considered equivalent to the requisite qualification. Only 153 candidates were recommended for appointment by the Commission. This was challenged before this Court by filing a petition, CWP No.20630 of 2006 titled *Suman Lata and others v. State of Haryana and others*, which was allowed vide judgment dated 22.02.2007, holding that the petitioners therein were eligible for the post on the basis of diploma from the Kurukshetra University. The matter reached the Supreme Court and finally, vide judgment dated 24.11.2021, rendered in SLP (c) No.8670 of 2007 titled *Devender Bhaskar and others v. State of Haryana and others*, the view taken by this Court was reversed holding that it erred in considering the Diploma in Art and Craft acquired from the Kurukshetra University as valid qualification since the same was not equivalent to two-year Diploma in Art and Craft conducted by the Haryana Industrial Training Department.



2.3. It is pertinent to note that the selection of Art and Craft Teachers pursuant to the advertisement in question had been set aside by this Court in CWP No.23394 of 2010 titled *Neha and others v. State of Haryana and others*, vide judgment dated 20.02.2015, and the Commission was directed to make the selection afresh, and conclude the entire process as per criterion notified on 28.12.2006 by holding objective type written test and *viva voce*. All the candidates who had submitted applications in response to the advertisement, including those who had earlier been selected, were permitted to participate in the process. The judgment was upheld by the Division Bench in LPA No.359 of 2015, and SLP No.14171 of 2020 filed against the same was also dismissed by the Supreme Court vide order dated 14.12.2020. Accordingly, in terms of the directions issued in *Neha* case *ibid*, the Commission invited applications for fresh selection vide notice dated 28.12.2020, and written test was conducted on 31.01.2021. The shortlisted candidates were interviewed from 14.03.2021 to 18.03.2021. Final selection result was announced on 14.11.2021. The petitioners, however, could not be selected due to being less meritorious than the last selected candidates in their respective categories, and were also ineligible in terms of the judgment rendered in *Devender Bhaskar* case (*supra*), since they had done Diploma in Art and Craft through distance education from the Kurukshetra University. 668 selected candidates who possessed the same Diploma from the Kurukshetra University were also not recommended as their diplomas were not considered equivalent to the requisite qualification.

2.4. Therefore, finally only 153 candidates were recommended for appointment by the Commission vide notice dated 08.03.2022. Other candidates who were eligible but could not be selected as per result dated



14.11.2021, filed various petitions, including CWP No.24339 of 2021 titled *Manoj Kumar and others v. State of Haryana and others*, claiming selection and appointment as Art and Craft Teachers pursuant to the instant advertisement, as the posts were lying vacant after 668 candidates holding diploma from the Kurukshetra University had been declared ineligible. This Court, vide order dated 09.11.2022, directed the Commission to carry out selection process on the remaining 668 posts. The relevant paragraph of the judgment reads as under:

That being so, respondent-department is directed that against the 668 posts which have become available, selection process be initiated to select 668 candidates for selection and consequent appointment of Art and Crafts Teachers. Any candidate, who is selected and secures appointment will be required to furnish an undertaking/affidavit that he/she will be governed by the order to be passed by the Hon'ble Supreme Court of India in review petition, which has been filed in SLP No.8670-2007 titled as Devender Bhaskar (supra) and in case as per the order of Hon'ble Supreme Court of India in review petition warrants vacation of post by him/her, he/she will vacate the same without raising any objection, only then their cases be considered for appointment in case they are selected. The said selection and consequent appointment under this order will not give any right to the petitioners over and above any order to be passed by the Hon'ble Supreme Court of India in review petition, which has been filed in SLP No.8670-2007 titled as Devender Bhaskar (supra) and the candidates so selected and appointed under this order will be governed by the order to be passed in the review petition in Devender Bhaskar (supra) without their (there) being further proceedings.

It is also made clear that as the selection and consequent appointment of the candidates against the 668 posts will take some time and if before the selection or appointment of the



candidates against the vacated post advertised, judgment of the Hon'ble Supreme Court of India in review petition, which has been filed in SLP No.8670-2007 becomes available for consideration of the department, the same will prevail over this Order and the same will be implemented and this order will not be given effect to.

2.5. Pursuant thereto, the Commission notified revised final result, vide announcement dated 26.12.2022, and appointment letters were given to 178 candidates, subject to final outcome of the review petitions in *Devender Bhaskar* case (*supra*) pending before the Supreme Court at that time. Accordingly, total 331 candidates were appointed (153 appointed on the basis of result dated 14.11.2021 and 178 pursuant to result dated 26.12.2022).

2.6. The candidates declared ineligible on the basis of Diploma from the Kurukshetra University had filed review petitions before the Supreme Court in *Devender Bhaskar* case (*supra*), which were clubbed with Review Petition (C) No.154 of 2022. Other candidates were also impleaded as parties to these petitions. During the course of hearing, the government accepted Diploma in Art and Craft from the Kurukshetra University as a qualification equivalent to Diploma in Art and Craft secured from the Haryana Industrial Training Department. Further, it was brought to the Court's notice that as per information furnished by the Department, 4248 posts of TGT Art and Craft (Drawing) were lying vacant as on 16.02.2023, and all the review petitioners being eligible could be accommodated against those posts. This is so recorded in the interim order, dated 10.05.2023, passed in the review petitions, which reads as under:

Learned senior counsel for the petitioner has placed before us response under the RTI Act which says that 4248



posts of TGT Art and Craft (Drawing) are lying vacant as on 16.02.2023. It is further submitted that in view of the existence of so many vacant posts, all the applicants who are eligible can be accommodated. Response of the RTI is taken on record.

Learned counsel appearing for the State prays for and is allowed three days time to seek instructions in the matter.

The matter be listed on 16.05.2023 to consider only the question whether the State is ready and willing to accommodate all the qualified persons on the vacant posts.

2.7. Pursuant thereto, an additional affidavit dated 20.05.2023, was filed by the Director, Secondary Education Department, which reads as under:

3. That in compliance of the above mentioned interim order dated 10.05.2023, the matter has been referred to the Government for taking decision in the matter and the Government has decided to give permission/one time relaxation to convert 178 posts of TGT Art to the post of Art & Craft Teacher (Diminishing Cadre), so that all the review petitioners and affected person having Diploma from Kurukshetra University, Kurukshetra (i.e. 667 candidates) who were in the first select list dated 17.11.2021 sent by HSSC can be accommodated without affecting any person who has already been appointed (including 178 candidates appointed conditionally vide order dated 09.11.2022 passed by Hon'ble Punjab & Haryana High Court in CWP No. 24339 of 2021). The above said decision taken by the Government not to be treated as precedent.

2.8. Based upon that, the review petitions were disposed of by the Supreme Court, vide judgment dated 03.07.2023, in terms of the readiness of the government to accommodate and appoint candidates having Diploma in Art and Craft from the Kurukshetra University, who had been found meritorious and included in the selection list, dated 14.11.2021, without



adversely affecting 178 candidates who were conditionally appointed pursuant to directions of the High Court. It was also observed that such appointments would be made against 667 notified vacant posts, and the posts of 178 appointees, who got appointment pursuant to the directions in *Manoj Kumar* case (*supra*), were to be treated distinct and separate since the same had been converted from Trained Graduate Teacher (TGT) Art to Art and Craft Teachers (diminishing cadre). The relevant paragraph of the judgment reads as under:

12. The above communication manifests that the Government of Haryana is now ready to accommodate and appoint candidates with Diplomas in Art & Craft from Kurukshetra University, who were found meritorious and were included in the selection list dated 14.11.2021, without adversely affecting the 178 candidates who were conditionally appointed pursuant to the directions of the Punjab & Haryana High Court. As it is no longer in issue that the Diplomas in Art & Craft secured from Kurukshetra University by the 667 candidates in the selection list dated 14.11.2021 stand on par with the Diploma in Art & Craft from Haryana Industrial Training Department, there would be no hindrance to their being considered for appointment and this Court is not required to venture into the equivalence of these qualifications. However, such appointments would now have to be made against the 663 notified vacant posts that would be available, as the 178 appointees are being treated as distinct and separate. These 178 appointees would have to be excluded from the count of the notified posts under Advertisement No. 6/2006 as they were converted as Art & Craft Teachers (Diminishing Cadre). Appointments to be made pursuant to this judgment would have to be limited to the vacant posts notified under Advertisement No.6/2006 and cannot be extended to later vacancies which have arisen thereafter. Further, the appointing authority would



have to strictly go by the merit ranking in the selection list dated 14.11.2021 while making appointments to these available notified vacancies without disturbing the appointments already made or the seniority of such appointees, irrespective of whether or not such appointees found mention in the selection list dated 14.11.2021 and if they did, their merit ranking therein. This is because the review petitioners and others identically situated are now being accommodated and appointed, despite the long lapse of time since the inception of this recruitment process, and more particularly, as those who were appointed have already put in significant length of regular service prior to the belated entry of the new appointees into regular service at this stage. The entire exercise pursuant to this judgment shall be completed by the authorities concerned expeditiously and, in any event, not later than two months from the date of receipt of a copy of this judgment.

3. In this background, Mr. Kaushal, learned senior counsel for the petitioners contends that as the situation exists, the respondents have given appointment as Art and Craft Teachers to the candidates who are less meritorious than the petitioners. 178 such candidates had been appointed pursuant to the directions issued in *Manoj Kumar* case (*supra*), prior to the review judgment in *Devender Bhaskar* case (*supra*) wherein the Government on its own created as many posts by converting the existing posts of TGT Art to accommodate these candidates who were not in the original selection list. Although they had been given conditional appointments in terms of the judgment in *Manoj Kumar* case (*supra*) and their services were required to be terminated after the review judgment, it was not done and they were allowed to continue in service by creating/converting the posts. The petitioners are the candidates from the same selection; they fulfill the requisite qualifications and have secured more marks than those 178



candidates/appointees. Accordingly, they have a right to seek appointment on parity, and the principle of equality demands that the State should create/convert posts equal to the number of petitioners herein and give them appointment on merit, i.e., only to those who have secured more marks than the already appointed candidates. Hundreds of posts are lying vacant which is apparent from the affidavit filed by the respondents before the Supreme Court which finds mention in the review judgment itself. Refusing appointment to the petitioners would only perpetuate discrimination against them which is impermissible under Article 14 of the Constitution.

4. Ms. Shruti Jain Goyal, Senior Deputy Advocate General, on the contrary, contends though there is no dispute that the petitioners have secured more marks than those 178 candidates appointed pursuant to the direction issued by this Court in *Manoj Kumar* case (*supra*), but they have no right to seek appointment on that basis. At the time review judgment was rendered by the Supreme Court in *Devender Bhaskar* case (*supra*), as also today, there are no posts of Art and Craft Teacher in the Department. It was only in peculiar circumstances that the posts of TGT Art were converted to those of Art and Craft Teacher in a diminishing cadre to accommodate 178 candidates who had joined service pursuant to the directions in *Manoj Kumar* case (*supra*). By the time the review petitions came to be adjudicated before the Supreme Court, those candidates had already been appointed and had rendered about six months' service also. Keeping these facts in view, the respondents decided to accommodate and appoint them conditionally in a diminishing cadre by giving one time relaxation and converting the posts, with a clear stipulation that it would not be treated as a precedent. Therefore, the petitioners cannot claim parity with them.



5. Arguments advanced by learned counsel for the parties have been considered.

6. As per facts apparent on record, the Commission advertised 816 posts of Art and Craft Teachers vide advertisement 6/2006, and recommended the names of selected candidates in their respective categories for appointment in 2010. The selection was, however, quashed by this Court in *Neha* case (*supra*); fresh selection was made in terms of the directions issued therein and final result was announced on 14.11.2021. The petitioners could not be selected being less meritorious, and were also ineligible in terms of the judgment rendered in *Devender Bhaskar* case (*supra*) since they had done diploma in Art and Craft through distance education from the Kurukshetra University. 668 other candidates with the same diplomas were also declared ineligible as their diplomas were not considered equivalent to the requisite qualification.

6.1. Resultantly, only 153 candidates were recommended by the Commission, and 668 posts remained vacant. Therefore, many candidates filed petitions before this Court claiming appointment against those vacant posts which were decided vide a common judgment dated 09.11.2022, rendered in *Manoj Kumar* case (*supra*), directing the Commission to carry out selection against the remaining 668 vacant posts. At that time, review petitions against the judgment in *Devender Bhaskar* case (*supra*) were pending before the Supreme Court. Accordingly, a caveat was incorporated in the judgment, dated 09.11.2022, that appointments against those vacant posts would be subject to final outcome of the review petitions. The selection process to fill up the vacant posts was, accordingly, carried out by the Commission, and 178 candidates were appointed as per merit on



26.12.2022. Thereafter, review petitions were decided by the Supreme Court vide judgment dated 03.07.2023. During the course of hearing of the review petitions, the Government reconsidered their stand and accepted Diploma in Art and Craft from the Kurukshetra University as equivalent to the requisite qualification/Diploma in Art and Craft from the Industrial Training Department. Also, the Government gave an undertaking to accommodate and appoint all the candidates with this qualification who were in the selection list, dated 14.11.2021, without adversely affecting 178 candidates who had been appointed conditionally in terms of judgment dated 09.11.2022, passed in *Manoj Kumar* case (*supra*). This was done by treating the 178 appointees as a separate class, for whom one time relaxation to convert equal number of posts of TGT Art to Art and Craft Teachers (in diminishing cadre) was also granted. The review petitions were, accordingly, disposed of vide judgment dated 03.07.2023.

6.2. Thereafter, the petitioners herein approached this Court by filing the instant petitions on the grounds that they were eligible for the posts in question as their Diploma in Art and Craft from the Kurukshetra University had been recognised as equivalent to requisite qualification, and were more meritorious than those 178 candidates who had been allowed to continue in service by converting the posts in a diminishing cadre, as aforementioned. They also claimed that hundreds of posts of Art and Craft Teachers are vacant in the Department, against which the petitioners can be considered.

6.3. It is evident from the facts aforementioned that the circumstances in which the Government agreed to appoint 178 candidates by creating/converting equal number of posts of TGT Art to Art and Craft



Teachers in a diminishing cadre, were different. Although these appointees have lower marks than those of the petitioners herein, that in itself is not a sufficient ground for the latter to seek appointment by claiming parity with the former. Those 178 appointees had the requisite qualification and were eligible for the posts from day one, and had been duly selected and offered appointment against vacant posts, though conditionally, in terms of directions issued by this Court in *Manoj Kumar* case (*supra*). Further, at the time when the decision to accommodate them was taken by the Government, they were already working and had rendered about six months' service. On account of these distinctive facts, they formed a separate class which was not the case with the petitioners herein who were neither eligible initially, nor had they been selected or appointed at any stage. Accordingly, the concession given by the respondents for creation of 178 posts to adjust the earlier appointees, who formed a separate class, cannot be a ground for the petitioners to seek similar concession from the Government. Once the petitioners are not placed equivalent to those candidates, their claim for parity loses significance. Still further, the petitioners do not have any vested right to seek the concession which was given by the Government to a separate class of candidates in peculiar circumstances.

7. The view taken by this Court is in line with the view taken by the Supreme Court in *Anmol Kumar Tiwari and others v. State of Jharkhand and others*, 2021(5) SCC 424. In that case, an advertisement, dated 01.03.2008, was issued for appointment against 384 posts of Police Sub-Inspectors, Attendants (Sergeant) and Company Commanders. As per the final selection result, 382 candidates were selected. Thereafter, a 'High Level Committee' was constituted by the State Government to examine the



irregularities alleged in the selection process, which found that the select list had been wrongly prepared by ignoring merit of the candidates and giving undue importance to the preferences given by them. The unsuccessful candidates filed writ petitions before the High Court. During the pendency of those petitions, the appointment of forty-two candidates made on the basis of original select list was cancelled, and forty-three new appointments were made on the basis of revised select list that was prepared as per recommendations of the Committee. The High Court held that forty-two candidates whose appointments were cancelled, should be appointed against existing/anticipated vacancies as they had initially been appointed after completion of training and had served the State for a considerable period. These were ordered to be treated as fresh appointments, and were to be placed at the bottom of the seniority list. The directions were issued because the High Court was of the view that the petitioners could not be held responsible for the irregularities committed by the authorities regarding the selection, and there was no allegation of fraud or misrepresentation on their part. There were intervenors before the High Court who sought appointment on the ground that they had secured more marks than the writ petitioners who were allowed to continue in service as fresh appointees. The prayer was declined by holding that they were not similarly situated, as also because there were no vacancies against which the intervenors could be considered or accommodated. The judgment was upheld by the Division Bench, and the intervenors approached the Supreme Court seeking appointment primarily on the ground that they were more meritorious than the writ petitioners (like the petitioners herein). Besides, they could not have been denied appointment on the plea of non-availability of vacancies as there were about



1214 vacant posts of Sub-Inspectors as on 31.10.2011, as revealed to them in response to an application under the Right to Information Act, 2005.

7.1. In this factual background, the Supreme Court held that the intervenors were not entitled to claim parity with the writ petitioners who formed a separate class mainly because they had already been appointed and served the State for some time. Further, even existence of vacancies would not entitle them to appointment keeping in view the fact that the advertisement in question was issued in 2008, and subsequent selection had also taken place (in the instant case also advertisement was issued in 2006, and selection subsequent thereto has taken place). Still further, it was held that the intervenors could not claim right to appointment against the posts beyond the ones advertised. The observations of the Court are as under:

12. The second issue relates to the claim of the intervenors in the Writ Petitions for appointment. There is no doubt that selections to public employment should be on the basis of merit. Appointment of persons with lesser merit ignoring those who have secured more marks would be in violation of the Articles 14 and 16 of the Constitution of India. The intervenors in the Writ Petitions admittedly have secured more marks than the Writ Petitioners. After cancellation of the appointments of the Writ Petitioners, 43 persons have been appointed from the revised select list. Those 43 persons have secured more marks than the intervenors. By the appointment of 43 persons, the number of posts that were advertised i.e. 384 have been filled up. The intervenors have no right for appointment to posts beyond those advertised. The contention on behalf of the intervenors in the Writ Petitions is that they cannot be ignored when relief is granted to the Writ Petitioners who were less meritorious than them. We are unable to agree. Relief granted to Writ Petitioners is mainly on the ground that they have already been appointed and have served the State for some time and



they cannot be punished for no fault of theirs. The intervenors are not similarly situated to them and they cannot seek the same relief. The other ground taken by the intervenors in the Writ Petitions before us is that relief was denied to them only on the basis of a wrong statement made on behalf of the State Government that there were no vacancies. No doubt, the intervenors have placed on record material to show that there was no shortage of vacancies for their appointment. One of the reasons given by the High Court for not granting relief to the intervenors is lack of vacancies. However, we are not inclined to direct appointment of the intervenors as selections in issue pertain to an advertisement issued in 2008, Subsequently, selection to posts of Sub-Inspectors have been held and a large number of persons were appointed. The number of posts advertised in 2008 is 384 and the intervenors have no right for appointment for posts beyond those advertised. They cannot claim any parity with the Writ Petitioners.

- 8. In view of the foregoing discussion, there is no merit in the petitions, and the same stand dismissed.
- 9. Pending miscellaneous application(s), if any, stand(s) disposed of as having been rendered infructuous.
- 10. A photocopy of this order be placed on the connected files.

(TRIBHUVAN DAHIYA)
JUDGE

19.02.2025
Maninder

Whether speaking/reasoned : Yes
Whether reportable : Yes