



LPA-750-2022 (O&M) and connected cases

1

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

**202 (I) LPA-750-2022 (O&M)
Date of Decision : August 01, 2025**

**DAYANAND -APPELLANT
V/S**

STATE OF HARYANA AND OTHERS -RESPONDENTS

(II) LPA-753-2022 (O&M)

**RATAN KUMAR -APPELLANT
V/S**

STATE OF HARYANA AND OTHERS -RESPONDENTS

(III) LPA-999-2022 (O&M)

**SEEMA SETHI -APPELLANT
V/S**

STATE OF HARYANA AND OTHERS -RESPONDENTS

(IV) LPA-1086-2022 (O&M)

**DEEPAK KUMAR -APPELLANT
V/S**

STATE OF HARYANA AND ANOTHER -RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE KULDEEP TIWARI**

**Present: Mr. Shailender Mohan, Advocate
for the appellant (in all cases).**

Mr. Puneet Gupta, Addl. A.G., Haryana.

KULDEEP TIWARI, J.

CM-1794-LPA-2022 IN LPA-750-2022

CM-1806-LPA-2022 IN LPA-753-2022

CM-2395-LPA-2022 IN LPA-999-2022

CM-2647-LPA-2022 & CM-2646-LPA-2022 IN LPA-1086-2022

**LPA-750-2022 (O&M) and connected cases**

2

1. Considering the valid and good reasons, as assigned in these applications, for condoning the delay of 7 days in filing LPA-750-2022, 8 days in filing LPA-753-2022, 39 days in refiling LPA-999-2022, 37 days in filing and 8 days in refiling LPA-1086-2022, therefore, these applications are **allowed**.

2. The above delay is condoned.

MAIN CASES

3. All these four intra court appeals are directed against a common order dated 25.07.2022 passed by the learned Single Judge, therefore, they are amenable for being decided through a common verdict. For the sake of brevity and convenience, facts are being extracted from LPA-1086-2022.

4. The appellant's prayer for consideration of his claim against the 04 posts of PGT (Chemistry) lying vacant in the category of "Economically Backward Persons in General Caste" (hereinafter referred to as the 'EBPGC'), after failing to succeed in the "General" category, was declined by the learned Single Judge through drawing the impugned order. Consequently, the legality of the impugned order has been challenged before this Court by filing this intra court appeal.

5. In the case at hand, 442 posts of PGT (Chemistry) were advertised for entire Haryana, except the district of Mewat, vide advertisement dated 28.06.2015 and the last date to apply was 21.09.2015. The appellant applied and competed for these posts in the "General" category, however, he remained unsuccessful on account of him being lower

**LPA-750-2022 (O&M) and connected cases**

3

in merit.

6. Subsequently, he filed a writ petition before this Court, seeking issuance of directions upon the respondent(s) to consider his claim in the reserved category of EBPGC, as 04 posts remained vacant in the said category. The learned Single Judge, by following the ratio of law laid down by the Hon'ble Supreme Court in ***"J&K Public Service Commission Vs. Israr Ahmad and others"***, (2005) 12 SCC 498, dismissed the writ petition with the observations that, after completion of the selection process, candidate cannot be allowed to substitute his category against vacant posts, even if he possesses the requisite eligibility qualifications for that.

7. Although the learned counsel for the appellants does not contest the factual observations, he relies upon the judgment dated 22.02.2019 rendered by a Co-ordinate Bench of this Court in LPA-320-2019 to assert parity with the candidate(s)/respondent(s) therein. He submits that a similar issue was adjudicated in that case and directions were issued upon the selection agency to consider the candidate(s)/ respondent(s)' claim under the EBPGC category.

8. This Court has considered the submissions made by the learned counsel for the appellants and finds that the judgment delivered by Co-ordinate Bench of this Court does not come to rescue of the appellants, inasmuch as the directions for considering the claim of the candidate(s) in the above case were issued while taking into account the peculiar facts and circumstances of the said case. The candidate(s) in the above case was dependent upon cyber cafe operator for filling out her form, and it was on

**LPA-750-2022 (O&M) and connected cases**

4

account of mistake of the cyber cafe operator that her category was opted as “General” instead of “EBPGC”. Moreover, the candidate(s) was a poor widow lady, working as an Anganwari Worker. In these circumstances, the Co-ordinate Bench had granted permission to the candidate(s) to change their category. However, in the instant case, the facts are entirely different, as the appellants set up their claim only on account of four seats remaining vacant in the reserved category of EBPGC.

9. There is no reason to deviate from the ratio of law laid down by the Hon’ble Supreme Court in ***J&K Public Service Commission’s case (supra)***, which has been rightly relied upon by the learned Single Judge. Moreover, if directions are passed to consider only the appellants’ cases under a different reserved category, after their failing to compete in “General” category, it would violate the doctrine of equality, inasmuch as there may be large number of such candidates who, by considering themselves to be ineligible, may not have applied for consideration of their cases under the relevant reserved category(ies). This view garners strength from the verdict drawn by the Hon’ble Supreme Court in ***“Rakesh Kumar Sharma Vs. Govt. of NCT of Delhi and Ors.”, 2013(4) SCT 543***. Relevant paragraph is extracted hereunder:-

“7. It also needs to be noted that like the present appellant there could be large number of candidates who were not eligible as per the requirement of rules/advertisement since they did not possess the required eligibility on the last date of submission of the application forms. Granting any benefit to the appellant would be violative of the doctrine of equality, a backbone of the fundamental rights under our Constitution. A large number of such candidates may not have

**LPA-750-2022 (O&M) and connected cases**

5

applied considering themselves to be ineligible adhering to the statutory rules and the terms of the advertisement.

There is no obligation on the court to protect an illegal appointment. Extraordinary power of the court should be used only in an appropriate case to advance the cause of justice and not to defeat the rights of others or create arbitrariness. Usurpation of a post by an ineligible candidate in any circumstance is impermissible. The process of verification and notice of termination in the instant case followed within a very short proximity of the appointment and was not delayed at all so as to even remotely give rise to an expectancy of continuance.”

10. In summa, this Court is in respectful agreement with the learned Single Judge. These Letters Patent Appeals are **dismissed** being devoid of merit.

11. Pending applications stand disposed of accordingly.

12. A photocopy of this order be placed on file of each connected case.

(ASHWANI KUMAR MISHRA)
JUDGE

(KULDEEP TIWARI)
JUDGE

August 01, 2025
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No