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

**CWP-23766-2025 (O&M)
Date of decision: 19.08.2025**

Jyoti Nagil

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sumit Sangwan, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

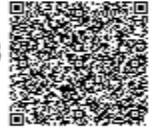
1. Present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* seeking quashing of the order dated 18.03.2025 (Annexure P-12), whereby claim of the petitioner for the post of Manager (Utility) (HSIIDC), pursuant to Advertisement No.1(8) of 2018 dated 21.07.2018 (Annexure P-1), stands rejected and further to issue a writ in the nature of *mandamus* directing respondent No.3-Commission to consider and recommend her name for selection to the aforesaid post.

2. Learned counsel for the petitioner has raised a specific ground in



the instant writ petition that in the absence of waiting list, all the posts advertised by respondent No.3-Commission should be filled up in order of merit by considering the next candidates against advertised posts. Admittedly, 05 posts are still lying vacant, out of 07 posts meant for general category, for which the petitioner had applied. Further, prior to issuance of instructions dated 07.06.2024 (Annexure P-7), there was a complete ban on preparation of any waiting list for selection to the posts falling in Groups 'A' and 'B' and respondent No.3-Commission is bound by the instructions dated 07.06.2024 (Annexure P-7) and is required to prepare the waiting list. The petitioner is shown at Sr. No.9 in the list of candidates, who have qualified for selection to the post of Manager (Utility) and in terms of pending vacancies, he deserves to be appointed on the said post. Furthermore, the issue with regard to selection of a candidate in order of merit for the posts lying vacant, has been authoritatively decided by this Court in ***CWP-13215-2009*** titled as '***Gajraj Singh Vs. State of Haryana and others***', decided on 05.05.2010, wherein it was categorically held that despite the absence of any waiting list or specific bar on formulation of the same, if there are suitable candidates next in the order of merit, they ought to be considered for selection and appointment against the posts, which remained vacant due to non-joining of selected candidates.

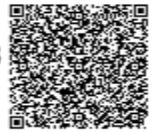
3. The aforesaid view taken by the Coordinate Bench of this Court was assailed by the State of Haryana by filing ***LPA-716-2011*** titled as '***State***



of Haryana and others Vs. Gajraj Singh’ and the Division Bench of this Court, vide judgment dated 20.04.2011 (Annexure P-8), upheld the aforesaid judgment dated 05.05.2010 and laid down the ratio that it is well settled law that once a post has not been consumed and a meritorious candidate in the merit list is available, the vacancy has to be filled up by inviting the next person in merit.

4. Further, in an identical case i.e. **CWP-15962-2020** titled as ‘*Anshul Vs. State of Haryana and another*’, decided on 08.03.2022 (Annexure P-9), the Coordinate Bench of this Court directed respondent No.3-Commission to consider claim of the petitioner therein being next in the order of merit for the post of Naib Tehsildar. Against the said judgment dated 08.03.2022 (Annexure P-9), LPA-404-2024 and SLP(C)-12404-2024 preferred by respondent No.3 were also dismissed on 20.02.2024 (Annexure P-10) by the Division Bench of this Court and the Hon’ble Supreme Court on 08.07.2024 (Annexure P-11), respectively. It is further contended that claim of the petitioner is required to be considered on the grounds; firstly in view of the instructions dated 07.06.2024 (Annexure P-7) and secondly, in view of the judgments passed in *Gajraj Singh*’s case (*supra*) and *Anshul*’s case (*supra*). The petitioner admittedly even in the absence of waiting list falls next in the order of merit and 05 posts are lying vacant as ‘unconsumed’ due to non-joining of the selected candidates.

5. Mr. Piyush Khanna, Addl. AG, Haryana, who is present in the



Court, accepts notice on behalf of respondents No.1 to 4-State and Mr. Vikrant Pamboo, Advocate accepts notice on behalf of respondent No.5. They could not controvert the fact that the controversy involved in the present petition is squarely covered by the aforesaid judgments passed in **Gajraj Singh's** case (*supra*) and **Anshul's** case (*supra*).

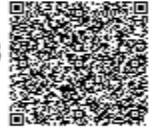
6. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of the parties, present petition is taken up today for final disposal.

7. The case of the petitioner is squarely by the judgments passed in **Gajraj Singh's** case (*supra*) and **Anshul's** case (*supra*). The observations made by the Coordinate Bench of this Court in **Anshul's** case (*supra*), speaking through Justice Arun Moga, read as under: -

"Further more, reliance may be had on a Division Bench judgement rendered by this Court in case titled as "State of Haryana and others v. Gajraj Singh" passed in LPA No.716 of 2011 decided on 20.04.2011 wherein a similar view as expressed by me hereinabove, were upheld by another coordinate Bench in the following terms:-

"It is well settled that once a post has not been consumed and a meritorious candidate in the merit list in available then the vacancy could be filled in by inviting next person in merit. The direction issued by the learned Single Judge are consistent with the principles of equality laid down in Articles 14 and 16(1) of the Constitution."

8. In view of the aforesaid judgments rendered by the Division



Bench and Coordinate Bench of this Court in **Gajraj Singh**'s case (*supra*) and **Anshul**'s case (*supra*), present petition is allowed and the impugned order dated 18.03.2025 (Annexure P-12), rejecting the claim of the petitioner, is hereby set aside. Accordingly, the respondents are directed to ascertain and determine the claim of the petitioner with regard to being next in the order of merit for selection to the post of Manager (Utility) (HSIIDC) due to non-joining of last candidate in the general category and if found so, she be considered and recommended to the State Government for appointment to the aforesaid post, within a period of two months from the date of receipt of certified copy of this order.

9. Needless to say, the petitioner shall be entitled to all consequential benefits as per merit list at par with her other batchmates, who have already been appointed except for the monetary benefits on the principle of 'No Work, No Pay'.

10. With the aforesaid observations made and directions issued, the present writ petition stands disposed of.

11. All the pending miscellaneous application(s), if any, shall stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

19.08.2025
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No