



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-16447-2026 (O&M)

ASHWANI KUMAR

.....APPELLANTS

VERSUS

STATE OF HARYANA & ORS.

....RESPONDENTS

1.	The date when the judgment is reserved	27.05.2026
2.	The date when the judgment is pronounced	11.06.2026
3.	The date when the judgment is uploaded	11.06.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	Not applicable

CORAM: HON’BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. D.S. Patwalia, Sr. Advocate with
Mr. Abhishek Masih, Advocate
for the petitioner.

Mr. Deepak Balyan, Addl. A.G., Haryana.

Mr. Kanwal Goyal, Advocate with
Ms. Sheena Dahiya, Advocate
for respondent-HPSC.

SANDEEP MOUDGIL, J

This petition has been filed under Article 226/227 of the Constitution of India with a prayer that this to issue an appropriate writ order or direction including a writ in the nature of *certiorari* quashing the result dated 04.05.2026 (P-7) to the extent that the respondents have failed to declare category wise result and have not called candidates up to 12 times to the number of posts as advertised in the General category as specifically provided in the Advertisement No.22/2026 dated 30.01.2026 (P-1).

2. The petitioner is an aspirant for recruitment to the posts of HCS (Executive Branch) and Allied Services pursuant to Advertisement No. 22 of 2026 dated 30.01.2026 (Annexure P-1) issued by the Haryana Public Service Commission and appeared in the preliminary examination conducted on 26.04.2026. After the provisional answer key was published on 28.04.2026, the petitioner submitted objections to certain questions within the prescribed period, relying upon standard textbooks and other authoritative sources. However, according to the petitioner, the objections were not properly considered while finalising the answer key, which adversely affected his score and chances of qualifying for the Main Examination.

3. The grievance of the petitioner is twofold. Firstly, it is alleged that while the advertisement expressly stipulated that candidates twelve times the number of advertised vacancies would be shortlisted and admitted for the Main Examination, the Commission failed to adhere to the said criterion and did not shortlist the requisite number of candidates in the general category. Secondly, it is contended that the result of the preliminary examination was declared without furnishing a category-wise breakup of shortlisted candidates, contrary to the

practice followed in previous recruitment processes. The petitioner asserts that had the prescribed shortlisting ratio been correctly applied and his objections to the answer key been duly accepted, he would have qualified for the Main Examination.

4. Aggrieved by the declaration of the final answer key and the result dated 04.05.2026, the present petition has been filed.

Contentions:

On behalf of the petitioner:

5. Learned counsel for the petitioner contends that the respondent-Commission has acted in clear violation of the terms and conditions of Advertisement No. 22 of 2026, which specifically provided that candidates twelve times the number of advertised vacancies were to be admitted to the Main Examination. It is submitted that against 46 vacancies in the General Category, the Commission was required to shortlist 552 candidates, but failed to do so, thereby arbitrarily restricting the zone of consideration and depriving eligible candidates, including the petitioner, of an opportunity to compete further.

6. It is further argued that the result of the preliminary examination has been declared in a wholly non-transparent manner as the Commission did not publish a category-wise breakup of shortlisted candidates and instead issued only a consolidated result. According to the petitioner, such action is contrary to the consistent practice followed by the Commission in previous recruitment processes and has made it impossible for candidates to verify whether the prescribed shortlisting criteria has been correctly applied.

7. Learned Counsel additionally submits that despite raising objections to several questions in the provisional answer key on the basis of authoritative

sources, including NCERT textbooks and other reliable material, the petitioner's objections were rejected without assigning any reasons or disclosing the opinion of any expert body. It is argued that the process adopted by the Commission lacks transparency and fairness, particularly when the final answer key reflects only limited changes despite numerous objections having been received.

8. It is lastly contended that the petitioner has secured 52.5 marks and would have qualified for the Main Examination had the respondent-Commission properly considered the objections raised by him and strictly adhered to the shortlisting criteria prescribed in the advertisement. The impugned action is, therefore, stated to be arbitrary, unreasonable and violative of Articles 14 and 16 of the Constitution of India, warranting interference by this Court.

On behalf of the respondents:

9. The respondent-Commission, while opposing the writ petition, contends that the result of the Preliminary Examination has been declared strictly in accordance with the terms of Advertisement No. 22 of 2026 and the Government instructions governing reservation for Ex-servicemen and their dependents. It is submitted that Clause 17(xv) of the advertisement specifically incorporated the Government instructions dated 09.03.2022, which prescribe a priority mechanism for extending reservation benefits to Ex-servicemen, Disabled Ex-servicemen and their dependents. Accordingly, the Commission shortlisted candidates by applying the said priority criteria so as to ensure adequate representation of reserved category candidates at the final stage of selection.

10. It is further contended that the interpretation sought to be advanced by the petitioners regarding Clause 17(xv)(H) would defeat the very object of reservation for Ex-servicemen and their dependents. According to the

Commission, if reservation were not operationalised at the stage of shortlisting, sufficient candidates belonging to the reserved categories may not remain available for consideration at the final stage, thereby frustrating the purpose of the policy.

11. With regard to the challenge to the answer key, the Commission submits that all objections received from candidates against the provisional answer key were duly referred to subject experts for examination. It is stated that after obtaining expert opinion, the final answer key was prepared and uploaded on 02.05.2026. The allegation that the objections submitted by the petitioners were ignored is specifically denied. The Commission asserts that a large number of objections were scrutinised by independent experts and even the objections raised in the present litigation were subsequently re-examined by subject experts, who did not recommend any further change in the final answer key.

12. The respondent further submits that the entire process has been conducted in a fair, transparent and objective manner by relying upon expert opinion and not on any administrative discretion.

13. On the aforesaid premises, it is argued that no arbitrariness, illegality or violation of the terms of the advertisement is made out and, therefore, the writ petition deserves to be dismissed.

Issues for Determination:

Whether the non-adherence of the conditions stipulated in the advertisement by the respondent-commission regarding reservation of ESM/DESM candidates is sustainable in law?

Analysis:

14. Having heard the submissions raised by the counsel for both parties and careful perusal of the material placed on record, this Court is of the opinion

that the principal issue which falls for consideration before this Court is whether the respondent-Commission was justified in applying the reservation and priority criteria prescribed for Ex-servicemen, Disabled Ex-servicemen and their dependents at the stage of declaration of the preliminary examination result and shortlisting candidates for the Main Examination.

15. Qua this aspect, the Clause 17(xv) of the advertisement in question may be turned towards which provides that, *“The reservation for Ex-servicemen of Haryana will be given as per instructions issued vide No. 12/15/2019-4GS-II dated 09.03.2022 and further clarified vide letter even No. dated 13.04.2022 by the Chief Secretary to Govt. Haryana”*. The instructions dated 09.03.2022, referred to herein provided for the ***“Benefit of reservation to Ex-servicemen and their Children”*** and specifically mentioned that the Government has decided to grant the benefit of reservation to Ex-Servicemen and their family members, with a priority list regarding the manner in which reservation is to be provided to ex-servicemen. The respondents had advertised 5 seats of ESM/DESM category, and against these 5 seats, a total of 60 candidates were shortlisted for the mains examination. But the controversy turns upon the interpretation of Clause 17(xv)(E) and Clause 17(xv)(H) of Advertisement No.22 of 2026. For ready reference, the relevant clauses read as under:-

Clause 17(xv)(E):

“The priority list for recruiting agency for preparation of final list of selection/appointment of ex-servicemen or their family members against the posts reserved for ex-servicemen shall be as under:-

(i) Disabled Ex-servicemen;

(ii) Failing (i), family members of Disabled Ex-servicemen;

(iii) Failing (ii), other Ex-servicemen;

(iv) Failing (iii), family members of other Ex-servicemen.”

Clause 17(xv)(H):

“In all circumstances the benefit of reservation against the posts reserved for Ex-servicemen shall be admissible at the time of final selection list only and not at the time of preliminary examination/test, main examination/test or interview.”

16. A plain reading of Clause 17(xv)(E) shows that it merely prescribes the order of preference amongst different classes of Ex-servicemen candidates. More importantly, the clause itself opens with the words “for preparation of final list of selection/appointment”. Thus, the preference mechanism is intrinsically linked with the preparation of the final select list and not with any intermediary stage of recruitment.

17. The Clause 17(xv)(H) removes every possible doubt. The provision is couched in negative and mandatory language. The expression “in all circumstances” is of considerable significance. Equally significant is the use of the word “only” after the phrase “final selection list”. The clause thereafter expressly excludes the operation of reservation at the stage of “preliminary examination/test, main examination/test or interview”. The legislative intent could not have been expressed in clearer terms.

18. The stand of the respondent-Commission is that although Clause (H) contains such a stipulation, the priority criteria under Clause (E) was applied at the stage of preliminary shortlisting by the commission so as to ensure adequate availability of Ex-servicemen candidates at the final stage. The submission, however, overlooks the fact that a recruiting agency is bound by the recruitment

conditions as notified and cannot substitute them with a procedure of its own devising.

19. The law is equally well settled that the terms of an advertisement constitute the governing charter of recruitment and has all trappings of a statutory prescription and can only be changed by way of an amendment only. In ***“Sureshkumar Lalitkumar Patel v. State of Gujarat and ors. 2023 SCC Online SC 167”***, the Supreme Court held that an advertisement binds the parties and carries the force of a statutory prescription unless contrary to the governing rules. Similarly, the Constitution Bench of the Supreme Court in ***Tej Prakash Pathak v. Rajasthan High Court, (2025) 2 SCC 1***, reaffirmed that the doctrine against changing the rules of the game midway is a facet of Articles 14 and 16 of the Constitution and ensures fairness in public employment. Relevant extract is as under:

“14. The doctrine proscribing change of rules midway through the game, or after the game is played, is predicated on the rule against arbitrariness enshrined in Article 14 of the Constitution. Article 16 is only an instance of the application of the concept of equality enshrined in Article 14. In other words Article 14 is the genus while Article 16 is a species. Article 16 gives effect to the concept of equality in all matters relating to public employment. These two articles strike at arbitrariness in State action and ensure fairness and equality of treatment.

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42. We, therefore, answer the reference in the following terms:

(2) Eligibility criteria for being placed in the Select List, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness;

(5) Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the Rules are non-existent, or silent, administrative instructions may fill in the gaps”

20. It is also worth noting that the Division Bench of this Court was called upon to interpret clauses which are materially identical to Clauses 17(xv)(E) and 17(xv)(H) involved in the present case in ***LPA No.1217 of 2025*** titled as ***“Haryana Staff Selection Commission v. Deepak and others”*** decided on 19.08.2025. After examining the scheme of reservation, the Division Bench held:-

“A bare perusal of Clause 2(E) of the said instructions makes it abundantly clear that the priority list is for the purposes of preparation of final list of selection/appointment of ex-servicemen or their family members against the posts reserved for ex-servicemen. A reading of Clause (H) would further make it clear that the benefit of reservation against the posts reserved for ex-servicemen have been made admissible at the time of final selection list only and not at the time of preliminary test, main test or interview. A harmonious reading of the aforesaid clauses would thus show that the intent is that such reservation and priority list cannot be made operational at the stage of short-listing of candidates.”

21. The Division Bench further held that the recruiting agency could not travel beyond the terms of the advertisement and that any such departure would be contrary to the settled principles governing public recruitment. The facts of the present case are strikingly similar. The Commission has admitted that while declaring the result dated 04.05.2026, it shortlisted candidates by applying the priority list contemplated under Clause 17(xv)(E) granting the benefit of reservation to the ESM/DESM category candidates at the preliminary stage only. The tabulation furnished by the Commission itself shows that candidates were shortlisted by giving preference to Disabled Ex-servicemen and their family

members even at the preliminary stage in a clear violation of its own advertisement especially what the Clause 17(xv)(H) expressly prohibited in unambiguous terms.

22. The Court is unable to accept the stand adopted by the Commission that such deviation was necessary to achieve the object underlying the reservation policy. This court is of the opinion that the object of a policy cannot be invoked by defeating the express language present in it and interpreting it against its literal meaning. If the Commission intended the benefit of reservation to operate from the stage of preliminary shortlisting itself, nothing prevented it from saying so. On the contrary, the Commission consciously employed the words “final selection list only” and expressly excluded the preliminary examination, main examination and interview stages from its operation.

23. The respondent-Commission, being a constitutional recruiting body, was under an obligation to faithfully implement the advertisement. It could neither dilute Clause 17(xv)(H) nor render it otiose by applying Clause 17(xv)(E) at a stage specifically prohibited by the advertisement itself. Such an interpretation would amount to rewriting the recruitment conditions causing prejudice to other candidates.

24. Viewed from any angle, the action of the respondent-Commission in making the priority list operational at the stage of declaration of the preliminary examination result cannot be sustained. The same is contrary to the plain language of Clauses 17(xv)(E) and 17(xv)(H), contrary to the ratio laid down by the Division Bench in *Deepak (supra)*, and contrary to the settled principle that a recruiting authority cannot alter or supplement the conditions of recruitment after the process has commenced.

25. Insofar as the challenge to the final answer key is concerned, this Court finds no merit in the same. The record demonstrates that objections received from candidates were referred to subject experts, whose recommendations formed the basis of the final answer key. The Commission has further disclosed that even the disputed questions forming subject matter of the present petitions were again referred for expert review during the pendency of these proceedings and no further change was recommended. In the absence of any manifest error or perversity, this Court would be slow to interfere with an expert determination. The challenge to the answer key, therefore, deserves rejection.

Conclusion:

26. In view of the discussion made hereinabove, this court is of the opinion that the writ petition deserves to be allowed in part.

27. The respondent-Commission is directed to revise the preliminary result by applying the reservation and preference provisions relating to Ex-servicemen strictly in accordance with Clause 17(xv)(H) of Advertisement No.22 of 2026. However, the prayer qua the challenge to the final answer key stands rejected for reasons discussed above.

28. Pending miscellaneous applications, if any, also stand disposed of.

(SANDEEP MOUDGIL)
JUDGE

11.06.2026

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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*