

2026:PHHC:038007-DB

LPA-2192-2017 (O&M)
Date of Decision: 11.03.2026

Om Parkash

...Appellant

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR

Present: Ms. Seerat Saldi, Advocate for the appellant.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Varun Veer Chauhan, Advocate for respondent No.3.

ASHWANI KUMAR MISHRA, J. (Oral)

1. This appeal assails the judgment of the learned Single Judge dated 21.02.2014, whereby, challenge laid to the appointment of private respondent No.3, failed.

2. Learned Single Judge has gone through the materials on record and has come the following conclusions:-

“That apart, it is by now well settled that public post which is not advertised cannot be filled up without giving others reasonable opportunity to compete for the selection and appointment, which would violate Articles 14 and 16 of the Constitution of India. The Court cannot be a party to such a situation, especially when the petitioner had an opportunity to challenge the advertisement at the initial stage and at this belated stage when having participated in the selection process and competed for the advertised 2 posts of Scheduled Caste

category and having been unsuccessful, now cannot be permitted to assert a claim or point out a flaw in the advertisement. This would attract the principle of estoppel against the petitioner which will disentitle the petitioner to the claim in the writ. On this ground also, the writ fails.

Merely because an inadvertent mistake has taken place on the part of the respondents while preparing and issuing the advertisement, which is not in consonance with the instructions especially with regard to the number of posts to be reserved for a particular category cannot be put right at this belated stage in the manner suggested by the petitioner, especially when the said post has not been advertised. This type of mistake, as in the present case, can only be removed/rectified by issuing a separate advertisement or the said short fall in the reserved category post in the Scheduled Caste can be taken care of in the subsequent succeeding selection process, but a candidate who has participated in pursuance to an advertisement which had only advertised specified number of posts for a particular category, cannot claim, as a matter of right, the filling up of the unadvertised post may be because of the mistake in the advertisement which is unchallenged.

The assertion of the counsel for the respondents that the petitioner is not entitled to 55 marks under the heading “assessment as per percentage in qualifying Degree” as the petitioner had obtained 49.25% marks and, thus, was entitled to only 50 marks, whereas he has been granted 55 marks cannot be accepted in the light of the consolidated mark sheet dated 21.08.2009 (Annexure P-18) issued to the petitioner by the Indian Institute of Architects where he has obtained 310 marks out of 600 which comes to 51.6% marks. The class obtained is also second, which aspect has been further clarified in the communication dated 19.09.2011 (Annexure P-20) issued by the Indian Institute of Architects where it is stated that according to the Scheme, a student on obtaining 55 marks or above marks was given II class. Both the documents establish that the

petitioner had more than 50% marks and, therefore, has rightly been granted 55 marks.

However, for the reasons, which have been given in the earlier part of the judgment, the prayer made in the writ petition cannot be accepted.

Thus, finding no merit in the present writ petition, the same stands dismissed. “

3. When the matter is called out, learned counsel for the State points out that the appellant as well as private respondent, whose appointment was challenged in the writ petition, have retired.

4. This factual position is not disputed by the appellant. Once the private respondent has been allowed to continue as also has superannuated, we do not find any occasion to proceed with the appeal when the challenge was to the appointment of the private respondent. For all practical purposes, the cause raised, has lost its efficacy and remains only of academic importance.

5. In that view of the matter, we do not find any occasion to interfere with the judgment of the learned Single Judge dated 21.02.2014 and consequently, the appeal is dismissed.

6. All pending misc. application(s), if any, also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

11.03.2026
rajesh

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No