
(2018) 08 P&H CK 0074

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal . 362, 968 of 2018 (O&M)

Haryana Staff Selection Commission

APPELLANT

Vs

Priyanka and others

RESPONDENT

Date of Decision : 10-08-2018

Acts Referred:

Citation : (2018) 08 P&H CK 0074

Hon'ble Judges : A.B.CHAUDHARI, J;KULDIP SINGH, J

Bench : Single Bench

Advocate : Samarth Sagar, R.K.Malik, Sunil Hooda, Rahul Deswal, Vikram, Sanjeev

Final Decision : Dismissed

Judgement

For the reasons mentioned in the application the same is allowed and delay in filing the appeal stands condoned.

Main case By this common judgment, we shall dispose of LPA Nos.362, 405 to 409, 412 to 418, 421, 425, 427, 434 to 437, 439, 442, 443, 470, 517, 571, 572, 591, 613, 918 of 2018.

Haryana Staff Selection Commission has preferred these Intra Court Appeals against judgment dated 23.10.2017 passed by a Single Bench of this

Court, in which, the following order was passed:-

12. Hence, in view of what has been stated hereinabove, as also as per the ratio of the Division Bench judgment in CWP no.9533 of 2001, â??Ankita

Beniwal vs. Haryana Public Service Commissionâ?, these petitions are allowed and the respondent Commission is directed to interview the petitioners

if they otherwise come within the zone of selection as per the marks obtained by the last candidate, in each category in which the petitioners have

applied, provided of course that the result in the case of each petitioner, in the examination concerned, was disclosed by the respondent University

prior to the cut off date i.e. 12.10.2015 as per the corrigendum Annexure P-2.

The facts of the case are extracted from LPA No.362 of 2018. The controversy in the present case is very short. The Haryana Staff Selection

Commission advertised posts for Post Graduate Teachers in different disciplines, including Mathematics and English. The last date for receipt of online

applications form was 12.10.2015. Since B.Ed. result of the petitioners was not officially declared by Maharshi Dayanand University, Rohtak before

the said cut off date, they applied to the University for conveying their result confidentially, which the University did and in this way, on the basis of

the confidential result, the petitioners applied before the cut off date i.e. 12.10.2015. There is no dispute regarding the same. The result was declared

on 5.11.2015 when the cut off date had already passed. This Court is informed that in the result, all the petitioners passed their examination, though

there was little difference in marks between the marks conveyed through confidential result and the result officially declared. Screening test was done

on 6.3.2016 and the interviews were held from 7.10.2016 to 10.10.2016. During screening, candidature of the petitioners was rejected on the ground

that their result was not officially declared before the cut off date.

The question posed before the learned Single Bench as well as before this Bench is as to whether the result confidentially declared by the University

is a validly declared result?

After hearing learned counsel for the appellant as well as the respondents-writ petitioners, we are of the view that there is no illegality or infirmity in

the impugned order of the Single Bench. In this case, when the result was not declared before the cut off date, the present petitioners applied to the

University for declaring their result confidentially which the University did. The result was conveyed to the Haryana Staff Selection Commission

confidentially which made the petitioners eligible.

Plea of learned counsel for the appellant is that in the Calender of Maharshi Dayanand University, Rohtak, for the year 2005, as per Clauses 29, 30

and 37, only the Registrar or Controller of Examination can publish the result. Since, the final result was not declared by the Registrar or the Controller

of Examination, therefore, the result confidentially conveyed, is not a validly

declared result.

We are of the view that the Haryana Staff Selection Commission has taken a hyper technical view of the matter. The University had the power to

declare the result under its Calender. When the University had the power to declare final result, it has always got the power to declare the result of

some of the students provisionally/ confidentially in case of emergent situation, which they did. Power of the Registrar to declare the result

confidentially has not been specifically challenged by the Haryana Staff Selection Commission.

Learned counsel for the appellant has relied upon the authorities of the Apex Court in Rakesh Kumar Sharma vs. State (NCT of Delhi) and others,

(2013) 11 Supreme Court Cases 58, Dolly Chhanda vs. Chairman, Jee and others, (2005) 9 Supreme Court Cases 779 and also of High Court of Delhi

in Union Public Service Commission and another vs. Govt. of NCT of Delhi and others, Writ Petition (Civil) No.10058/2009,

In none of the aforesaid cases, there was a dispute that the result confidentially declared by the University before the cut off date and communicated

to the Commission or the Haryana Staff Selection Commission, is illegal.

Learned counsel for the appellant has further argued that there was certain variation in the marks in the result declared confidentially and the final

result.

We are of the view that it hardly affects the merits of the case. Sometime, at the time of declaration of result, some moderation is done and there is

some variation. However, the fact remains that all the petitioners had qualified the B.Ed. examination and they were eligible to apply for appointment

to the post of Post Graduate Teacher. Ultimately marks could be considered at the time of interview and if it affects the merits, the same can be taken

into consideration. In any case, the final result was also declared on 5.11.2015 i.e. before the Screening Test, which took place on 6.3.2016, i.e. much

before the date the Screening Test was conducted.

Learned counsel for the appellant has vehemently argued that in this case, some of the candidates could not apply for conveying their result

confidentially and therefore, they could not be discriminated against.

The said contention was rightly repelled by the learned Single Bench of this Court. If some of the candidates did not bother to apply for confidential

result, they are to blame themselves for the said lapse. In any case, those who are vigilant and had applied for confidential result and it was conveyed

before the cut off date i.e. 12.10.2015, which made them eligible for applying for the post, their case has to be considered and decided in terms of the

directions of the learned Single Bench of this Court. We are of the view that many times, Universities, due to some administrative reasons or

slackness is unable to declare the result in time. The candidates, who are to get employment or further admission on the basis of the said result, are

not to be made to suffer for the same. Therefore, most of the Universities have made provision for declaring the result provisionally/ confidentially,

which is correct approach in such cases. Therefore, whether or not, there are any rules, the University, which has got the power to declare the final

result, has also got the power to declare the result confidentially/provisionally before it is officially declared.

We are also of the view that Haryana Staff Selection Commission indulged in unnecessary litigation. Cut off date was given for applying for the post.

Haryana Staff Selection Commission should have noticed that in many cases, the concerned Universities are unable to declare result in time. They

should be only concerned that the candidates, who applied for the post are eligible for being considered. For that the Haryana Staff Selection

Commission could conveniently amend the Rules and/or the condition to ensure that the date of eligibility is to be seen as on the date of Screening or

the interview. Some of the Institutions have already done the same.

Therefore, we direct the Haryana Staff Selection Commission as well as State of Haryana that, for future, consider the recommendations of this

Court that the eligibility of educational qualification should be considered at the time of Screening or interview so that the candidates whose results are

declared late, do not suffer and lose the chance to compete for the said post and possible selection.

In view of the matter, we do not find any illegality or infirmity in the impugned order dated 23.10.2017 passed by a Single Bench of this Court.

Consequently, all the present LPAs are dismissed.

A copy of the judgment be placed on the connected case files.