



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

CWP-7088-2025

Date of decision: 22.08.2025

Shubham Kumar and another

....Petitioners

Versus

The State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. Jagbir Malik, Advocate  
for the petitioners.

Mr. Piyush Khanna, Addl.A.G., Haryana.

Mr. Balvinder Sangwan, Advocate and  
Mr. Krishna Maurya, Advocate  
for respondent No.2.

Mr. Sandeep Chhabra, Advocate  
for respondent No.4-HSIIDC.

**HARPREET SINGH BRAR, J. (ORAL)**

1. The present writ petition has been preferred under Article 226 of the Constitution of India seeking issuance of writ in the nature of *certiorari* for setting aside of the result dated 18.02.2025 (Annexure P-15/A) published by the Haryana Public Service Commission (HPSC) for the post of Manager (Utility) in Haryana State Industrial and Infrastructure Development Corporation (HSIIDC) as well as impugned order dated 27.02.2025 (Annexure P-16) to the extent of withdrawal of the recommendation of the petitioners for the said post.

**FACTUAL BACKGROUND**

2. Briefly, the facts are that the HPSC published an Advertisement bearing No.1 of 2018 for various posts in various departments, including 07 posts for Manager (Utility) in HSIIDC. Out of these 07 posts, 06 were



unreserved and 01 was reserved for SC category. On 14.09.2021, the HPSC conducted a computer-based written test and pursuant thereto released a list of qualifying candidates on its official website, which included the petitioners (roll numbers 5571 and 4816, respectively). After scrutiny of documents and an interview, the petitioners were selected for appointment to the post of Manager (Utility) with HSIIDC, as discernible from result dated 29.08.2023 (Annexure P-6). Subsequently, appointment letters were issued to the petitioners and they joined their posts on 30.04.2024 and 14.03.2024, respectively, after resigning from their previous jobs.

3. However, the result dated 29.08.2023 (Annexure P-6) was challenged before this Court in CWP-22114-2023 titled *Lalit Kumar vs. State of Haryana and others* and CWP-23085-2023 titled *Jyoti Nagil vs. State of Haryana and others* on the ground of disqualifying them for want of securing 50% marks in the interview as such a condition was not prescribed in the initial criteria. The said petitions were allowed and this Court directed the HPSC to ignore the condition of 50% marks in interview and consider the petitioners therein for appointment to the post of Manager(Utility) against three vacancies. Aggrieved by the same LPA-481-2025 titled *Haryana Public Service Commission vs. Lalit Kumar* was preferred which was dismissed by a Division Bench of this Court vide judgment dated 17.02.2025. In the interregnum, COCP-626-2025 titled *Lalit Kumar vs. Nishant Kumar Yadav and another* was filed and during the pendency of the same, HPSC issued a revised Final Result dated 18.02.2025 (Annexure P-15/A), which did not bear the names of the petitioners as selected candidates.

### **CONTENTIONS**

4. Learned counsel for the petitioners *inter alia* contends that the



petitioners were duly selected to the post of Manager (Utility) and have rendered 10 months of service in pursuance thereof. In view of the order passed by this Court in CWP No.22114 of 2023 (Annexure P-14) titled *Lalit Kumar vs. State of Haryana and others*, the respondents revised the result which moved the petitioners from Serial No.3 & 5 to Serial No.6 & 8, respectively, of the merit list. He further relies upon the judgment of this Court passed in ***CWP No.13215-2009*** titled as '*Gajraj Singh Vs. State of Haryana*' to raise a specific argument that even in the absence of any waiting list, all the posts advertised by respondent No.2-HPSC should be filled in the order of merit, by considering the next eligible candidate against the advertised post. Admittedly, 03 out of the 05 remaining posts in the general category, are still lying vacant. Further, in CWP No.23766 of 2025 titled as '*Jyoti Nagil Vs. State of Haryana and others,*' the writ petition of one of the candidates- Jyoti Nagil was allowed vide order dated 19.08.2025.

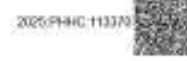
5. Learned counsel further contends that prior to the issuance of instructions dated 07.06.2024 (Annexure P-19), there was a complete ban on the preparation of any waiting list pertaining to posts falling in both Group A and B. However, respondent No.2-HPSC is indulging in cherry-picking by adopting different yardsticks for selection processes as respective waiting lists have been prepared by the Irrigation & Water Resources Department, Haryana qua selection to the post of Assistant Engineer (Electrical), in pursuance of Advt. No.59 of 2023, and the Development and Panchayat Department, Haryana for the post of Sub Divisional Engineer (Electrical), in pursuance of Advt. No.54 of 2023, which are both Group-B posts. The results, both dated 06.11.2024, published by the respondent- HPSC, have been presented in Court today, which states as under:



“3. The waiting list has been prepared in accordance with the reference from Chief Secretary to Govt. Haryana (Human Resource-II branch) vide memo NO.66/16/2021-3HR-II dated 07.06.2024.”

6. As such, since the petitioners are at Serial No.6 & 8 in the order of merit list and have qualified for the post of Manager (Utility), they are entitled to be appointed to the said vacant posts. Moreover, this Court in **Gajraj Singh (supra)** has categorically held that despite the absence of any waiting list or presence of a specific bar on formulation of the same, if there are suitable candidates available 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 the selected candidates. Furthermore, the State of Haryana assailed the findings recorded by a Coordinate Bench in **Gajraj Singh (supra)** by filing LPA No.716 of 2011, which was dismissed by the Division Bench vide order dated 20.04.2011. In fact, it was further laid down that it is settled law that once a post remains unconsumed and a meritorious candidate is available next in the merit list, the vacancy has to be filled by inviting him/her. Reliance is further placed upon the identical issue dealt *in extenso* by this Court in **CWP No.15962-2020** titled as **'Anshul Vs. State of Haryana and another'** decided on 08.03.2022 wherein this Court had directed the respondent-Commission to consider the claim of the petitioners therein being next in the order of merit to the post of Naib Tehsildar. The respondents therein preferred LPA No.404 of 2024 before this Court and SLP(C) No.12404 of 2024 before the Hon'ble Supreme Court, both of which were dismissed. As such, the claim of the petitioners is required to be considered in view of the instructions dated 07.06.2024 (Annexure P-19) and the judgments passed in **Gajraj Singh's case (supra)** and **Anshul's case (supra)**.

7. Learned counsel also places reliance upon the judgments passed



by this Court in CWP No.4947 of 2024 titled as '**Mohit Garg Vs. State of Haryana and others**', CWP No.26380 of 2021 titled as '**Ram Karan and others Vs. State of Haryana and others**', CWP No.30035 of 2017 titled as '**Mukesh Vs. State of Haryana and others**', LPA No.2018 of 2019 titled as '**Jyoti Sharma Vs. State of Haryana and others**' and CWP No.14001 of 2020 titled as '**Shivam Rohilla Vs. State of Haryana and others**'. He further submits that a conjoint reading of all the aforementioned judgments would clearly indicate that if the selected candidate has not committed any misrepresentation or fraud while participating in the selection process and upon his appointment, he must allowed to continue even by creating a supernumerary post as he cannot be removed by making changes subsequently.

8. Learned counsel for respondent No.2-HPSC submits that claim of the petitioners cannot be considered in view of the statutory provisions contained in the Haryana Civil Services (Executive Branch) and Allied Services and Other Services Common/Combined Examination Act, 2022 (in short 'the Act'). He further refers to Section 2 (ix) of the Act and submits that 'waiting list' has been defined therein as recommendations of additional names by the HPSC for appointment of a candidate to a service/posts over and above the advertised posts. He further relies upon Section 4 (iii) of the Act to submit that the State Government is not be competent to offer appointment to a candidate who has been placed in the waiting list or who claims himself to be in the waiting list, on the basis of Common/Combined Examination, for a post to which he was not recommended by the HPSC. Reliance in this regard is placed on the judgment rendered by a Coordinate bench of this Court in CWP No.2046 of 2020 titled as '**Balinder Singh Vs. State of Haryana and others**' decided on 06.02.2025 wherein *Anshul's case (supra)* was considered and it was



concluded that the ratio laid down therein cannot be used as a ground to claim the vacant post, as the recruitment process has to be conducted in accordance with the provisions of the Act.

9. Further, learned counsel relies upon the judgment of the Hon'ble Supreme Court in '*State of Jammu and Kashmir and others Vs. Sat Pal*' 2013 (2) SCT 250 where the petitioner was appointed as the selected candidate did not join during the validity of the waiting list. As such, the view taken in *Anshul's case (supra)* and *Sat Pal's case (supra)* would disentitle the petitioners to claim appointment. Admittedly, in the present case, no waiting list exists. Further, reliance can be placed on the judgment rendered the Hon'ble Supreme Court in '*Vallampati Sathish Babu Vs. State of Andhra Pradesh*' 2022 (13) SCC 193 as it covers the controversy involved in the present case in the backdrop of a factual matrix similar to the present case. It was held therein that in the absence of any provision for preparation of a waiting list, a candidate cannot be appointed merely on the strength of being next in the merit outside of the scope of the selected list. Once the issue has been settled by the Hon'ble Supreme Court, any reliance on the judgment of the Division Bench of this Court would have no relevance.

10. Further, in '*State of Uttar Pradesh Vs. Karunesh Kumar and others*, 2022 SCC OnLine 1706, the Hon'ble Supreme Court has reiterated the principle that no right vests in an unsuccessful candidate to insist upon their consideration for a post, in the absence of any rule or instruction to prepare a waiting list. Since there is no statutory obligation on respondent No.2-HPSC to maintain a waiting list, the claim of the petitioners cannot be considered even by issuing a writ of *mandamus*. Further, the Hon'ble Supreme Court, while dismissing the SLP filed by the respondents *in Anshul's case (supra)*, did not



decide the matter on merits and has left the question of law involved, open. Therefore, it cannot be said to have binding value as a precedent.

### **OBSERVATIONS AND ANALYSIS**

11. Having heard learned counsel for the parties and after perusal of the record, this Court finds merit in the arguments advanced by learned counsel for the petitioners.

12. Admittedly, the petitioners participated in the recruitment process and were ultimately selected to the post of Manager (Utility). The said recruitment was made in compliance with all applicable rules, without any fraud or misrepresentation from the petitioners. As such, the petitioners were duly selected candidates, who met all the prescribed requirements. Furthermore, notably, unconsumed posts are still available with the HSIIDC for the position of Manager (Utility). It is a matter of fact that the petitioners were already selected, pursuant to which, they worked for about 10 months in the said position, before the impugned order dated 27.02.2025 (Annexure P-16) was passed. Further still, according to the merit list, they are next in line for recruitment. Therefore, the petitioners cannot be denied appointment to the unconsumed posts. It is further clarified that the question of preparation of a waiting list does not arise as an issue here and therefore does not need addressal. Moreover, *Karunesh Kumar (supra)* refers to those candidates who were unsuccessful in their attempts while *Vallampati Sathish Babu (supra)* pertains to those who were beyond the scope of selected list. Since the petitioners served at the said post after being selected, and the list was only modified after judicial intervention, they cannot be construed as unsuccessful candidates nor can it be said that they fall outside the scope of the selected list. As such reliance placed by learned counsel for respondent No.2-HPSC on



**Karunesh Kumar (supra)** and **Vallampati Sathish Babu (supra)** is unfounded.

13. The matter at hand is entirely covered by a Division Bench of this Court in **Gajraj Singh's case (supra)**, wherein, speaking through Justice M.M. Kumar, the following observations were made:

*“3. Having heard the learned counsel, we are of the view that the aforesaid contention which has again been raised before us was rightly rejected by the learned Single Judge. **It is well settled that once a post has not been consumed and a meritorious candidate in the merit list is 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.** The post of Lecturer in Hindi has to be offered to the most meritorious candidate who may be next in the merit after Vinod Kumar under the ex-serviceman category. Therefore, no exception is provided to interfere in the view taken by the learned Single Judge. The appeal is wholly without merit and does not warrant admission. Accordingly, the appeal fails and the same is dismissed.”*

As such, since certain vacancies have presented themselves, which were not occupied by the selected candidates, naturally preference will be given to those whose names appear next on the merit list. Any specific formulation of the waiting list or absence of the waiting list itself shall not be an obstacle in this regard. Therefore, the withdrawal of the recommendation of the petitioners to the said post is impermissible.

14. Further, the reliance placed by learned counsel for the petitioners on the **Mohit Garg(supra)**, **Ram Karan(supra)**, **Mukesh Jyoti Sharma(supra)** and **Shivam Rohilla (supra)** has not been controverted by learned counsel for respondent No.2-HPSC to the extent that no misrepresentation or fraud committed by the petitioners during the process of appointment and, that their work and conduct has remained satisfactory.

### **CONCLUSION**

15. In view of the discussion above, the present petition is allowed. Accordingly, the impugned result dated 18.02.2025 (Annexure P-15/A) and



order dated 27.02.2025 (Annexure P-16) are hereby, set aside only to the extent of withdrawal of the recommendation of the petitioners. Further, orders dated 06.03.2025 (Annexures P-17 & P-18) are also set aside.

16. Needless to say, the petitioners shall be entitled to all consequential benefits on their reinstatement with effect from date of their relieving from the respective posts within a period of four weeks from the date of receipt of certified copy of this order.

**(HARPREET SINGH BRAR)**  
**JUDGE**

**22.08.2025**

*Neha*

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