



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

230

LPA No.1115 of 2023 (O&M)  
Date of decision: 20.08.2025

PANDIT BHAGWAT DAYAL SHARMA UNIVERSITY OF HEALTH  
SCIENCES, ROHTAK AND ORS.

.... Appellant

Versus

PARMOD KUMAR

.... Respondent

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

Present : Mr. Amit Jhanji, Sr. Advocate with  
Mr. Nilesh Bhardwaj, Mr. Anhad Batta, Mr. Shrenik Jain and  
Mr. Dushyant Singh, Advocates for the appellant.  
None for the respondent.

\*\*\*\*

**ASHWANI KUMAR MISHRA, J. (Oral)**

1. No one appeared on behalf of the respondent to pursue the appeal. The matter was passed over in the first round. The position is not different even on the revised call.
2. Learned counsel for the appellant is present but none appears on behalf of the respondent. In such view of the matter, we proceed to take up the appeal for final hearing treating it to be *ex parte* against the respondent.
3. This appeal arises out of an order dated 02.06.2023 passed by learned Single Judge, whereby, the writ petition filed by the respondent has been allowed and a direction is issued to issue appointment letter to the respondent-petitioner within a period of two months. The learned Single Judge has also observed that the petitioner will only get notional benefits for the purpose of seniority, length of service etc. from the date his batchmates, under the advertisement, but he will not be entitled to any actual monetary benefit.

**LPA No.1115 of 2023 (O&M)**

- 2-

4. Brief facts giving rise to filing of the present writ petition by the respondent are as under:-

4.1 Advertisement No.1/2008 was issued by the Appellant-University inviting applications for appointment to various posts including the post of Receptionist under BC-B category. The respondent-petitioner was eligible and participated in the selection process. On account of his low merit, he was not selected and was placed at Sr. No.2 in the waiting list drawn in the year 2014. The recruitment ultimately concluded with appointments offered to selected candidates in the year 2014. One Babru Bhan Yadav was issued an appointment letter on the post of Receptionist on 02.07.2014. It appears that Babru Bhan Yadav did not join, as he was already promoted by the University to a higher post. The person placed at Sr. No.1 in the waiting list namely, Rajender was also not offered the post. It is alleged by the respondent-petitioner that he had made an application under the RTI Act, wherein, he was informed that waiting list's candidates have not been offered any appointment.

4.2 In the year 2016, the appellant-University again advertised 17 posts of Receptionist under various categories. As per the appellant-University, this advertisement included the post of Receptionist which was earlier included in advertisement No.1 of 2008 and had not been filled. The respondent-petitioner, at this stage, made certain representations for considering his case for appointment but since nothing was done, he ultimately came to this Court by filing CWP No.15433 of 2017. The writ petition has been presented on 14.07.2017.

**LPA No.1115 of 2023 (O&M)**

- 3-

4.3 The writ petition was contested, on notice of motion, by the appellant-University on the ground that the respondent had no right to claim appointment at this belated stage since the selection process had concluded on 11.06.2014. It was further urged that as per instructions dated 28.10.1993, issued by State Government, the validity of the select list was limited to 6 months and even after further extension of 6 months' term, the validity of the waiting list expired on 10.06.2015. It was in this context that the matter came before the learned Single Judge.

4.4 The respondent-petitioner contended before the learned Single Judge that though, he was placed in the waiting list and a post was available, yet the appellant arbitrarily did not consider his case and therefore, writ be issued in his favour to command the appellant to appoint him.

4.5 Learned Single Judge has placed reliance upon the judgment of Division Bench of this Court in ***LPA No.1165 of 2017*** titled as ***State of Haryana and Others vs. Naresh Kumar***, decided on 01.12.2022 to hold that once the vacancy had arisen within a period of one year, during which the waiting list was in existence, any inaction on the part of the State in not appointing the writ petitioner, was to render the action of the appellant-State arbitrary and consequently, direction had been issued to appoint the respondent-petitioner.

5. Learned Senior counsel for the appellant contends that the facts of this case are quite distinct from the case of ***Naresh Kumar (Supra)*** and therefore, learned Single Judge had erred in applying the ratio of the judgment in LPA No.1165 of 2017 to grant the relief impugned in this appeal. It is

**LPA No.1115 of 2023 (O&M)**

- 4-

further urged that the validity of the waiting list had already expired on 10.06.2015, and the unfilled vacancy was included in fresh advertisement published by the employer on 30.09.2016. It is submitted that fresh advertisement was never challenged and therefore, at this belated stage, no direction could have been issued to appoint the respondent-petitioner.

6. So far as the Division Bench's judgment of this Court in the case of ***Naresh Kumar (Supra)*** is concerned, the facts of the case apparently were somewhat distinct. In para No. 8 thereof, the Division Bench, had noticed the facts of the case which are reproduced as under:-

*“8. It is not disputed that the advertisement (Annexure P-1) is dated 13.08.2019 bearing No.4 of 2009, whereby 373 posts of Social Studies Masters were sought to be filled up. The result was declared on 31.05.2012 (Annexure P-3) on the basis of the interviews held in the month of May, 2011 by the Haryana Staff Selection Commission (HSSC). Resultantly on 06.06.2012 (Annexure R-1) the HSSC had recommended the candidates for appointment to the post of Social Studies Masters, wherein it was specifically mentioned that the candidates selected in the waiting list were not to be considered against fresh vacancies as validity period of the waiting list was for one year from the date of issuance of letter. It was for the State Government to verify the documents pertaining to the qualifications, experience, age and caste/category etc and their antecedents before issuance of appointment orders.”*



7. A perusal of the judgment in the case of ***Naresh Kumar (Supra)*** would further reveal that no appointments were offered to the candidates in the year 2012, but extensions were granted to such persons to join against the posts. Though, the appointment letters indicated that non-joining would result in appointment being offered to others yet the employer issued show cause notices on 12.08.2014 and the appointment against the select list were made from time to time up to the year 2016. It was in this context that the Division Bench holds in para Nos.13 to 15 thereof, which are reproduced as under:-

*“13. Thus, we are of the considered opinion that the reasons which have now been given do not seem to be germane to the controversy and if that was so at the first instance while passing the speaking order on 14.11.2014 the same officer would have reasoning as mentioned earlier. The reasoning is for the mere purpose that the State Government had to get over its lack of inaction and deny appointments to the candidates who were higher in the wait list. It is to be noticed no justifiable reasons were given in the written statement as to why on account of the non-joining within the prescribed period of 15 days as noticed by the learned Single Judge when conditional appointment orders were issued on 12.11.2012 the wait list was not operated, as the candidates did not join. It is on account of the negligence and inaction of the State Government/appellants which has led to the expiry of the wait list. Though the person on the wait list had been agitating and clamoring for their rights in as much as they filed representations and served legal notices which would be clear from communication dated 07.06.2012 (Annexure P-7) wherein Naresh Kumar had put forth his case that he is at Sr. No.1 in the wait list and if candidates do not join he should be given a chance. Thus, the*

**LPA No.1115 of 2023 (O&M)**

- 6-

observations made *in Shankarsan Dash (supra)* as reproduced above go on to show the arbitrary action of the State has come forth.

14. Another aspect which is to be noticed that one fails to understand why 35 candidates were being given the latitude to join after the stipulated period as per the appointment orders and show cause notice had been issued to them as noticed on 12.08 2014 ever the validity has expired on 05.06.2013. The said letter mentioned that appointment can be offered to the other candidates who were standing in the waiting list and there was a proposal to cancel their appointment. Relevant portion of the letter dated 12-09.2014 reads as under:-

*“Now, it has been decided by competent Authority to cancel your candidature or appointment letter immediately so that appointment can be offered to other candidates who were standing in waiting list according to their mark. Now office is in the process of cancellation/termination of your candidature/ appointment letter.*

*But before cancellation of candidature, an opportunity of being heard is being provided to you all to show cause why appointment letter/candidature should not be cancelled. Hence, your are required to appear before Additional Director Administration Elementary at 10:30AM on 25.08.2014 in person and submit your version in writing if any failing which it will be presumed that you are not interested to say anything and your candidature/appointment order will be cancelled accordingly.”*

Sd/-  
Superintendent HRM-1  
O/o Director Elementary Education



Haryana, Panchkula

Dated, Panchkula the 12.08.2014"

15. It is also to be noticed that for the same advertisement in question appointment order have been issued on 17.11.2016 to one Geeta Devi on account of the fact that order passed in **LPA No.1563 of 2012 Geeta Devi Vs. State of Haryana and others'** arising out of CWP No.16710 of 2012 had to be complied with. It is, thus, apparent that even on 17.11.2016 appointments were being made against the said advertisement No.4 of 2009 for the post of Social Studies Masters after the opinion had been given on 13.11.2014 by the office of the Chief Secretary Relevant portion of the order dated 17.11.2016 reads as under-

**"OFFICE OF THE DIRECTOR ELEMENTARY EDUCATION HARYANA,  
PANCHKULA**

*Order No. 17/173-2012 HRM-1 (1) Dated, Panchkula 17.11.2016*

*In pursuance of judgment dated 21.01.2014 of Hon'ble Punjab & Haryana High Court, Chandigarh in LPA No. 1563 of 2012 in CWP No. 16710 of 2012 titled as Geeta Devi V/S State of Haryana and others, the claim of the Appellant/Petitioner i.e Geeta Devi for the post of S.S. Mistress under Ex-Serviceman (General) (Female) category has been considered in compliance of this Judgment (Supra) appointment letter is issued to petitioner i.e. Geeta Devi, on the basis of recommendations received from the Haryana Staff Selection Commission No. HSSC/Confid./Recomm./2012/332 dated 06.06.2012 against advt.4/2009 category no.5 for appointment in Haryana School Education (Group-C) State Cadre Service Rules-2012 on the post of S.S. Mistress in the scale of 9300-34800+GP 4600/-plus other allowances as*



**LPA No.1115 of 2023 (O&M)**

- 8-

*sanctioned by the Haryana Govt. from time to time on the following terms and conditions.*

Sr. No.	Employee ID No.	Merit No with category	Name & Address	Place of posting	Remarks
1	098397	143 (DFF, General)	Geeta Devi d/o Sh. Ram Kumar Village Girawar, PO Jondhi, Distt. Jhajjar	GHS Silothe (4667) Distt. Jhajjar	A/V

8. So far as the judgment in the case of ***Naresh Kumar (Supra)*** is concerned, we find substance in the appellant's contention that the direction to appoint the respondent-petitioner was issued in the peculiar facts of the case, which cannot be treated to be lying down any binding precedent for the present case. In the case of ***Naresh Kumar (Supra)***, the appointment process was found to be continuing up to the year 2016, and therefore, the Division Bench was of the view that the validity of the waiting list stood extended. The matter was otherwise forwarded to the Chief Secretary for the extension of the term of waiting list. As against the facts of the case of ***Naresh Kumar (Supra)***, we find that though a vacancy had come into existence on account of non-joining of one of the selected candidate, but no claim was lodged by the respondent-petitioner at that stage. The validity of the waiting list expired on 10.06.2015. The vacant post was included in fresh advertisement published on 30.09.2016. The fresh advertisement was not under challenge. The limited prayer made was to extend the last date for submission of application in the fresh advertisement. Interestingly, writ petition came to be filed after expiry of more than a year of

**LPA No.1115 of 2023 (O&M)**

- 9-

the fresh advertisement. The inordinate delay in approaching the Court as also the expiry of validity of waiting list has unfortunately not been considered by the learned Single Judge, while allowing the writ petition. In such circumstances, we find that merely on the strength of Division Bench's judgment in the case of *Naresh Kumar (supra)*, which we have found was based on facts of its own, the writ petition filed by the respondent-petitioner could not have been allowed. Consequently, this appeal succeeds and is allowed. The impugned judgment and order passed by the learned Single Judge is hereby set aside. Writ petition in the respondent-petitioner's case is dismissed.

9. Pending application(s), if any, also stands disposed of.

**(ASHWANI KUMAR MISHRA)**  
**JUDGE**

**(ROHIT KAPOOR)**  
**JUDGE**

**AUGUST 20, 2025**

*Jyoti-90*

Whether speaking/reasoned: Yes/No.

Whether reportable : Yes/No