



**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH**

**LPA No.1 of 2025 (O&M)  
Date of Decision: 07.01.2025**

Subhash Chander

...Appellant

Versus

State of Haryana and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA  
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present:- Mr. Kuldeep Singh Siwach, Advocate  
for the appellant.

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**SANJEEV PRAKASH SHARMA, J.(Oral)**

Learned counsel for the appellant asserts that 34 posts are lying vacant and the order dated 16.01.2020 passed by learned Single Judge in CWP No.3300 of 2019 did not call for any review and therefore, the order passed in review deserves to be set-aside.

2. We have carefully considered the submissions made by learned counsel for the appellant. We find that on 16.01.2020, learned Single Judge passed the following order:-

*“ Keeping in view the fact that 304 posts are still lying vacant under ESM (General Category) and the fact that petitioners had secured 44 and 57 marks respectively against the cut off marks i.e 40 under ESM (General Category), this Court is of the opinion, the petitioners can be adjusted against the*



*vacant posts as they have obtained higher marks than the cut off marks under ESM (General Category), in view of instructions dated 15.07.2014 mentioned in para No. 2 of the affidavit dated 22.09.2019 wherein in column No. h, it has been stated that the 2% reservation will be available only if quota reserved for Ex-servicemen or backward class remains unfilled to that extent due to non-availability of suitable ex-servicemen or their dependents or non-availability of suitable candidates from Backward classes. Over all reservation either from the unfilled vacancies of Ex-servicemen or from the Backward Classes for Freedom Fighters/their children/grand children will remain limited to 2% only. This benefit will be available to all grand children i.e sons and daughters of sons and daughters (paternal as well as maternal) of the freedom fighters.”*

3. In review, learned Single Judge noticed that it was not 304 posts and the allegations were of 34 posts lying vacant with the department. However, he had noticed that the said 34 vacant posts have already been taken into consideration in the subsequent recruitment process and the selection process is already underway for appointment.

4. Keeping in view above, the claim of the appellant against those 34 posts said to be lying vacant has become otiose and it is a settled position that the clock cannot be turned back. If the posts have been included in the subsequent recruitment process, the appellant is always free to apply against the said posts and ought to have applied. The appellant's claim against the 34 posts is not liable to be accepted.



5. In view of the judgment passed by Hon'ble the Supreme Court in *Shankarsan Dash versus Union of India, 1991(3) SCC 47*, the order passed in review does not warrant any interference. The present appeal is accordingly dismissed.

6. Moreover, we find that the present appeal itself has been filed after so much delay and no case for condoning the delay in re-filing is made out. The application also stands dismissed.

7. Pending misc. application(s) also stand disposed of.

**(SANJEEV PRAKASH SHARMA)**  
**JUDGE**

**07.01.2025**  
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**(MEENAKSHI I. MEHTA)**  
**JUDGE**

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