



CM-3078-CWP-2025 in/and 1
RA-CW-104-2025 in
CWP-22114-2023

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

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RA-CW-104-2025 in
CWP-22114-2023

DATE OF DECISION :- 28.04.2025

Lalit Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Jagbir Malik, Advocate with Ms. Santosh Malik, Advocate
for applicants-respondents No.6 and 8.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Balvinder Sangwan, Advocate for respondent No.2.-HPSC.

Mr. Sandeep Chhabra, Advocate for respondent No.3.

JASGURPREET SINGH PURI, J (ORAL)

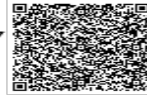
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The present application has been filed for condonation of delay
of 71 days in filing the review application.

For the reasons mentioned in the application, the application is
allowed and delay of 71 days in filing the review application is condoned.

RA-CW-104-2025

1. The present is a review application filed under Order 47 Rule 1
read with Section 151 of the Code of Civil Procedure read with Article
226/227 of the Constitution of India for reviewing the judgment dated
18.11.2024 passed by this Court.



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2. Mr. Jagbir Malik, Advocate appearing on behalf of the applicants-respondents No. 6 and 8 submitted that it is a case where the two petitioners in two different writ petitions namely Lalit Kumar and Jyoti Nagil had filed the writ petitions by claiming that they were in a higher position in the merit list and rather so far as petitioner Lalit Kumar is concerned, he was at Sr. No. 2 in the merit list but all of a sudden on the date of interview the entire criteria was changed by the Haryana Public Service Commission (HPSC) and a new criteria on the same date of interview was introduced whereby it was so directed that the essential qualification would also include scoring at least 50% marks in the viva voce and on this ground the petitioner was rendered disqualified because he was given less than 50% marks despite the fact he was higher in merit.

3. He submitted that while deciding the present writ petition this Court observed that the aforesaid fixing of criteria of 50% marks on the date of viva voce was not in accordance with law because the law has been laid down by a Constitutional Bench of Hon'ble Supreme Court in '***Tej Prakash Pathak and others versus Rajasthan High Court and others***', Civil Appeal No. 2634 of 2013 with Civil Appeal No. 2635 of 2013, Civil Appeal No. 2636 of 2013 decided on 07.11.2024 wherein the law laid down by Hon'ble Supreme Court in '***K. Manjusree versus State of Andhra Pradesh and Anr.***', 2008 (3) SCC 512 was held to be good law. He further submitted that the present review applicants although were impleaded as private respondents but they were required to be served through the Haryana Public Service Commission. In the memo of parties their address was



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mentioned through the Haryana Public Service Commission but they were not informed by the Haryana Public Service Commission.

4. He further submitted that be that as it may even otherwise also a perusal of the judgment dated 18.11.2024 would show that selection of the present applicants who were the private respondents in the writ petition was never set aside by this Court and this Court had noticed that three vacancies were available and therefore in the light of facts and circumstances was so directed that the 50% eligibility marks which was so introduced on the same date of interview be ignored and that was applicable for the petitioners of the writ petition and not the private respondents out of which two are the present applicants and in this way in order to implement the judgement of this Court the Haryana Public Service Commission ought to have ignored the aforesaid 50% criteria qua the petitioners of that case i.e. Lalit Kumar and Jyoti Nagil but they had no power or jurisdiction to have cancelled the selection and appointment of the present review applicants because the same was never set aside by this Court. In this regard he has also referred to three judgments i.e. LPA No. 2018 of 2019 titled as '***Jyoti Sharma versus State of Haryana and others***' decided on 22.03.2024, CWP No. 30035 of 2017 titled as '***Mukesh versus State of Haryana and others***' decided on 03.03.2020 and CWP No. 14001 of 2020 titled as '***Shivam Rohilla versus State of Haryana and others***' decided on 22.02.2024. He also submitted that rather five posts are still vacant. Instead of complying with the judgment for considering the petitioners of the writ petition for being appointed on their own merits and subject to the qualification they wrongfully displaced the present applicants and terminated their services which was beyond their power and beyond



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their jurisdiction and was not in compliance of the judgment of this Court in letter and spirit.

5. Learned counsel also submitted that even otherwise also before dispensing with the services of present two applicants no notice whatsoever was given to the applicants either by the Haryana Public Service Commission (HPSC) or by the Haryana State Industrial & Infrastructure Development Corporation Limited (HSIIDC) and therefore it was a clear cut case of violation of principle of natural justice despite being in violation of the judgment which was passed by this Court on 18.11.2024. He submitted that relief claimed in the present review application is only to the extent that the judgment be clarified and modified on the basis of aforesaid arguments addressed by him.

6. Mr. Balwinder Sangwan, Advocate appearing on behalf of HPSC submitted that on receipt of the notice from this Court they had forwarded the same to the Industry Department and thereafter they are not aware as to whether the private respondents were served or not. He further submitted that so far as the dispensation of the services of the present applicants is concerned the same was in compliance with the judgment passed by this Court and therefore no ground is made out for review of the application. He further submitted that even otherwise also against the present writ petition an LPA was filed by the Haryana Public Service Commission (HPSC) which has been dismissed and therefore the present review application is not maintainable. He also submitted that even also the present review application is not maintainable in view of the fact that the petitioner has filed a separate writ petition (CWP-7088-2025) for seeking a relief that



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they have been wrongly and erroneously been terminated from service on the ground that it is in pursuance of the judgment passed by this Court in CWP No. 22114 of 2023.

7. Learned counsel for the Haryana State Industrial & Infrastructure Development Corporation Limited (HSIIDC) submitted that the notices of the writ petition which was sent by the Haryana Public Service Commission (HPSC) to the Industrial Department was never received by the Haryana State Industrial & Infrastructure Development Corporation Limited (HSIIDC).

8. I have heard learned counsels for the parties.

9. The operative part of the judgment is reproduced as under :-

'20. This Court is of the considered view that case of both the petitioners is squarely covered by the judgment of a Constitutional Bench of Hon'ble Supreme Court in Tej Prakash Pathak and Others v. Rajasthan High Court and Others's case (supra). Therefore, both the petitions deserve to be allowed. The respondent-Commission is now directed to ignore the aforesaid eligibility qualification of securing 50% marks in the interview/vivavoce and therefore to consider the candidature of both the petitioners on their own merits. In case they are found to be eligible the respondent-Commission shall further process the cases of both the petitioners for the purpose of their appointment to the aforesaid post in accordance with law. So far as the petitioner-Lalit Kumar is concerned, apparently he was at Sr. No.2 in the merit list and therefore necessary process be made by ignoring the aforesaid 50% marks in the interview. Since as per learned counsel for respondent-HSIIDC, three posts are still vacant, then further measures be taken by the respondent HPSC to consider appointment of the petitioner-Lalit



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Kumar. So far as the petitioner namely Jyoti Nagil, is concerned, she was stated to be at Sr. No.9 in the merit list. Her case be also processed after ignoring her disqualification because of the aforesaid reason and in case she falls within the zone of consideration then her case be also processed and sent to the concerned HSIIDC. The entire exercise be completed within a period of two months from today. In case the petitioners are appointed to the aforesaid post then they shall be entitled for all consequential benefits including seniority etc. and will be given deemed date of appointment on the date when the other candidates were selected according to the merit inter-se between the petitioners and the other persons who were selected. However the petitioners will not be entitled for the salary for the period they have not worked.”

10. A bare perusal of the aforesaid would show that while considering the plea of the petitioners of the writ petition, this Court made observations in the aforesaid para where it was so directed that the Commission will ignore the eligibility qualification of securing 50% marks in the interview and thereafter to consider the candidature of both the petitioners on their own merits. Thereafter further directions have been issued.

11. The counsel for the applicant is only seeking clarification of the aforesaid judgment but this Court is of the considered view that there is no ambiguity in the judgment passed by this Court and therefore there is no need of any clarification. Apart from the above, the petitioner has also filed a separate writ petition before this Court and therefore in case the applicant has any grievance with regard to the illegal or wrong exercise of power by



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the HPSC in any respect, if any, then the same can be addressed to in the aforesaid writ petition in accordance with law.

12. In view of the above finding no merit in the application, the same is dismissed.

(JASGURPREET SINGH PURI)
JUDGE

28.04.2025

P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No