



**LPA-1878-2019 (O&M)
and other connected cases**

-2-

6. LPA-651-2021 (O&M)

State of Haryana and others

..... **Appellants**

Versus

Om Parkash

..... **Respondent**

7. LPA-1997-2019 (O&M)

State of Haryana and others

..... **Appellants**

Versus

Dharmender Lakra and others

..... **Respondents**

8. LPA-1950-2019 (O&M)

State of Haryana and others

..... **Appellants**

Versus

Hardeep

..... **Respondent**

9. LPA-1961-2019 (O&M)

State of Haryana and others

..... **Appellants**

Versus

Kuldeep and others

..... **Respondents**

10. LPA-1984-2019 (O&M)

State of Haryana and others

..... **Appellants**

Versus

Surender and others

..... **Respondents**

11. LPA-1921-2019 (O&M)

State of Haryana and others

..... **Appellants**

Versus

Sandeep Kumar and others

..... **Respondents**



LPA-1878-2019 (O&M) -3-
and other connected cases

12. LPA-1998-2019 (O&M)

State of Haryana and others

..... **Appellants**

Versus

Sajjan Singh and others

..... **Respondents**

13. LPA-1996-2019 (O&M)

State of Haryana and others

..... **Appellants**

Versus

Sunil Malik

..... **Respondent**

14. LPA-2000-2019 (O&M)

State of Haryana and others

..... **Appellants**

Versus

Dinesh Kumar

..... **Respondent**

15. LPA-2010-2019 (O&M)

State of Haryana and others

..... **Appellants**

Versus

Rakesh Kumar

..... **Respondent**

16. LPA-273-2020 (O&M)

State of Haryana and others

..... **Appellants**

Versus

Nasib Kumar and others

..... **Respondents**

17. LPA-1972-2019 (O&M)

State of Haryana and others

..... **Appellants**

Versus

Naveen Sharma

..... **Respondent**



LPA-1878-2019 (O&M) -4-
and other connected cases

18. LPA-1920-2019 (O&M)

State of Haryana and others **Appellants**

Versus

Dharambir Singh and others **Respondents**

19. LPA-1971-2019 (O&M)

State of Haryana and others **Appellants**

Versus

Samarjeet **Respondent**

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

Present: Ms. Shruti Jain Goyal, Sr. DAG, Haryana,
 for the appellants (in all cases).

Mr. R.K. Malik, Sr. Advocate with
 Mr. Varun Veer Chauhan, Advocate
 for the respondent(s) (in all cases).

SANJEEV PRAKASH SHARMA, J (ORAL)

1. Vide this common order, 19 appeals, the details of which have been given above, are being disposed of, as the same question of law is involved in all the appeals.

2. Challenge in these appeals is to the order dated 17.05.2018 passed by the learned Single Judge of this Court.

3. Several of the LPAs are time barred by so many days, while there is no satisfactory explanation coming forward on behalf of the State in filing appeals belatedly and after the orders having been duly implemented



**LPA-1878-2019 (O&M)
and other connected cases**

-5-

long back, we have been requested to hear the case on merits too. However, after hearing learned counsel for the State at length, we have noticed the following aspects.

4. The orders passed by the learned Single Judge impugned in the present appeals have already been implemented. The concerned writ petitioners have already been appointed and are performing their duties as Constables. The writ petitioners were directed to be appointed against vacant posts, which had fallen vacant on account of non-availability of Ex-serviceman, both of General category as well as SC/BC category. The basis of all the judgments is a judgment rendered by this Court in the case of ***'Garima Jindal Vs. Haryana Vidyut Parsaran Nigam Ltd. and another'*** passed in ***CWP-13384-2011, decided on 06.08.2012*** where the issue raised before the Court was as to whether the post which remained vacant only on account of non-availability of Ex-servicemen of any of the categories, would be left as it is or be allowed to be filled from the waiting list of General category and the other respective categories SC/BC etc. After taking into consideration the instructions issued by the State Government, this Court passed an order holding that upon non-availability of Ex-servicemen of any of the categories, the said post which remained vacant of that particular category, would be filled respectively from the waiting list of the same category. Thus, as 44 posts of Ex-servicemen (BCA category) and 108 posts of Ex-servicemen (General category) remained vacant, in a particular district, they were directed to be filled from General category and BCA category of that particular district. The said judgment was challenged by the



**LPA-1878-2019 (O&M)
and other connected cases**

-6-

State in LPA-1775-2012 but remained unsuccessful and the LPA was dismissed on 09.11.2012. The State carried to the Supreme Court in SLP but with the same result.

5. The judgment of *Garima Jindal (supra)* having attained finality was followed by the learned Single Judge in the cases against which the present LPAs have come before us while the counsel for the State fairly states that compliance of the judgments has already been made. Her anxiety is that the issue should be put to rest once and for all and should not be a source of continuous employment and directions by the Court in pending cases also relating to the selection which had attained finality way back in 2012. We find that so far as the orders passed by the learned Single Judge, which are under challenge before us are concerned, they have been passed on various dates upto 2017 too. The appointments have been made against the posts which were originally advertised on 21.07.2008.

6. It is an admitted position that the posts were not filled under the said advertisement. Since there were candidates available and who had participated in the said selection, they would have a right to be considered against the said post, keeping in view the law laid by the Constitution Bench of the Hon'ble Supreme Court in the case of '*Shankarsan Dash Vs. Union of India*', (1991) 3 SCC 47, the post cannot be allowed to be rolled over to an advertisement if there are available candidates who can claim those posts.

7. In view thereto, the orders passed by the learned Single Judge cannot be accepted and therefore, this Court would not accede to the prayer made by the learned State counsel having noticed that the law has been



**LPA-1878-2019 (O&M)
and other connected cases**

-7-

settled way back in the case of *Garima Jindal (supra)*, which is the basis of the directions issued in the subsequent judgments. We do not intend to interfere or disturb the findings given in the subsequent judgments if appointments have already been made. The issue has, otherwise, also become purely academic. We, therefore, may rest to the said issue finally and accordingly, all the appeals are dismissed in the same terms as decided in the case of *Garima Jindal (supra)*.

8. The delay in filing the LPAs is material, however, since we have decided the issue relying on a judgment passed by this Court, which has been upheld upto Supreme Court and implemented, we need not delve on the issue of limitation.

9. The pending misc. application(s), if any, shall stand disposed of.

**(SANJEEV PRAKASH SHARMA)
JUDGE**

**(MEENAKSHI I. MEHTA)
JUDGE**

20.02.2025
D.Bansal

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