

HARYANA STAFF SELECTION COMMISSION

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v.

PRIYANKA & ORS. ETC. ETC.

(Civil Appeal Nos. 5065-5095 of 2021)

SEPTEMBER 01, 2021

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**[VINEET SARAN AND DINESH MAHESHWARI, JJ.]**

*Service Law – Appointment – The appellant/commission had issued an advertisement inviting applications for appointment to the post of Post-Graduate Teachers, for which, the qualifying degree was B.Ed. – The last date for submission of the application was 12.10.2015 – The requirement was that on the date of submission of the application the candidate should have passed B.Ed. – The private respondents (candidates for the post) had appeared in the B.Ed examination – Since, the final result was not declared the private respondents were provided with the provisional/confidential result of their B.Ed. examination by the respective universities, which was prior to 12.10.2015 – The only ground on which the candidature of the private respondents was rejected by the appellant was that the result of the private respondents/candidates had not been officially declared by the respective Universities prior to the cut off date, i.e. 12.10.2015 – Challenging the order of rejection, the respondents filed writ petitions – The writ petitions were allowed by the High Court – On appeal, held: As long as the authenticity of the provisional/confidential result declared by the Universities is not in doubt, which in the present case was confirmed by the Universities on the request made by the appellant/commission, the view taken by the High Court is perfectly justified – It cannot be said that the respondents were not qualified as on the cut off date, which was 12.10.2015, as the provisional/confidential result had been declared by the respective Universities in favour of the candidates prior to the said date and the applications were filed by the respondents well within time, along with such provisional/confidential result – No reason to interfere with the order to this extent – However, the direction of the High Court to the appellant/commission to suitably amend its Rules to the extent that the date of eligibility should be as on the date of screening or interview is quashed.*

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- A CIVIL APPELLATE JURISDICTION: Civil Appeal Nos.5065-5095 of 2021.

From the Judgment and Order dated 10.08.2018 of the High Court of Punjab and Haryana at Chandigarh in LPA Nos.362, 405, 406, 407, 408, 409, 412, 413, 414, 415, 416, 417, 418, 420, 421, 425, 427, 434, 435, B 436, 437, 439, 442, 443, 470, 517, 571, 572, 591, 613 and 968 of 2018.

Maninder Singh, Sr. Adv., Dr. Monika Gusain, Advs. for the Appellant.

P. S. Patwaria, Sr. Adv., Ms. Garima Bajaj, Ms. Harshita Verma, C Agnish Aditya, Nikhil Bamal, Rajiv Mangla, Pradeep Kumar Kaushik, Dr. Sunil Kumar, Sameer Singh, Neelam Singh, Sandiv Kalia, Satbir Singh Pillania, Ms. Reena Rao, Dr. Sushil Balwada, Advs. for the Respondents.

The following Order of the Court was passed :

**O R D E R**

- D Leave granted.

The appellant had issued an advertisement inviting applications for appointment to the post of Post-Graduate Teachers, for which, the qualifying degree was B.Ed. The advertisement was issued on 28.06.2015 and the last date for submission of the application was 12.10.2015. The E requirement was that on the date of submission of the application the candidate should have passed B.Ed.

The undisputed facts in this case are that the private respondents had appeared in the B.Ed examination of the respective Universities and although the final result was not declared but the private respondents F (candidates for the post) were, on their demand, provided with the provisional/confidential result of their B.Ed. examination by the respective universities, which was prior to 12.10.2015. On the basis of such provisional/confidential result provided to the private respondents/ candidates, they applied for the post of Post-graduate Teachers prior to G the last date of submission of the application, which was 12.10.2015. Such facts are not in dispute before us.

The only ground on which the candidature of the private respondents was rejected by the appellant/Commission is that the result of the private respondents/candidates had not been officially declared by the respective Universities prior to the cut off date, i.e. 12.10.2015, H

and the provisional/confidential result (certificates) which were issued in favour of the private respondents/candidates thus could not be the basis on which they could have applied in response to the advertisement dated 28.06.2015.

Challenging the said order of rejection, the respondents filed writ petitions, which were allowed by the learned Single Judge and thereafter affirmed by the Division Bench of the High Court in the intra court appeals filed by the appellant/Commission. Aggrieved by the said orders of the High Court, the appellant has approached this Court by way of filing Special Leave to Appeals.

We have heard Mr. Maninder Singh, learned senior counsel appearing for the appellant, as well as Mr. P.S. Patwalia, learned senior counsel along with Ms. Garima Bajaj, learned AOR for the contesting respondents/original writ petitioners and perused the record.

The short question which was raised before the High Court and also before us is as to whether the provisional/confidential result declared by the Universities would be a validly declared result or not. The question has been considered by the High Court in detail and it has been held in favour of the candidates. In our view also, as long as the authenticity of the provisional/confidential result declared by the Universities is not in doubt, which in the present case has been confirmed by the Universities on the request made by the appellant/commission, the view taken by the High Court is perfectly justified. It cannot be said that the respondents were not qualified as on the cut off date, which was 12.10.2015, as the provisional/confidential result had been declared by the respective Universities in favour of the candidates prior to the said date and the applications were filed by the respondents well within time, along with such provisional/confidential result. As such, to this extent, we are not inclined to interfere with the order impugned in these appeals.

Mr. Maninder Singh has then pointed out that the High Court has gone further in directing/advising the appellant/Commission to suitably amend its Rules to the extent that the date of eligibility should be as on the date of screening or interview. The relevant portion of the judgment of the High Court which offends the appellant/Commission, is extracted below:

“.....For that the Haryana Staff Selection Commission could conveniently amend the Rules and/or the condition to ensure

A that the date of eligibility is to be seen as on the date of Screening or the interview. Some of the Institutions have already done the same.

B Therefore, we direct the Haryana Staff Selection Commission as well as State of Haryana that, for future, consider the recommendations of this Court that the eligibility of educational qualification should be considered at the time of Screening or interview so that the candidates whose results are declared late, do not suffer and lose the chance to compete for the said post and possible selection.”

C In our view, such directions, as have been issued by the High Court, were not necessary in the present case. As such in our opinion, since the said question was not in issue, the High Court ought not to have directed as aforesaid. We, thus, quash the aforesaid directions as issued in the portion of the judgment as quoted above.

D Subject to the aforesaid, these appeals are dismissed.

All pending intervention applications stand disposed of.

E Since this Court had, vide interim order dated 27.11.2018, directed that 90 posts be kept vacant by the Haryana Staff Selection Commission/ appellant i.e., 74 posts for the private respondents herein and remaining 16 posts for the intervenors who had till then filed intervention applications, we direct that the said 90 posts be offered to the 74 private respondents and 16 intervenors (who have filed the intervention application prior to the passing of the order dated 27.11.2018) within four weeks from today, and they shall be given appointment on due verification, without any delay.

F It is further provided that the aforesaid 90 candidates shall be placed just below the candidates who have already joined and the seniority of the 90 candidates shall be on the basis of the inter se merit among them. The respondents shall not be entitled to any salary for the period G they have not worked, and they would only be entitled for their due seniority with increment, if any, as their appointment shall be deemed to be notionally from the date of appointment of other candidates who were earlier selected and appointed in response to the advertisement dated 28.06.2015.