

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

LPA No. 105 of 2025
Date of Decision: 08.09.2025

Sumit Kumar & others **....Appellants**
Versus

Rakesh Kumar & others **...Respondents**

Coram

Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice
Hon'ble Mr. Justice Ranjan Sharma, Judge

*Whether approved for reporting?*¹

For the Appellants: Mr. A.K. Gupta and Mr. Abhendra Gupta, Advocates.

For the respondents: Mr. Ganesh Barowalia and Mr. Gambhir Singh Chauhan, Advocate, for respondent No.1.

Mr. Gobind Korla, Additional Advocate General, for respondents No.2 to 4.

Mr. Gaurav Sharma, Advocate, for respondents No.5 and 7.

None for remaining respondents.

G.S. Sandhawalia, Chief Justice (*Oral*)

The present Letters Patent Appeal is filed by respondents No.4, 5, 7 and 10 in the writ petition namely-Sumit Kumar, Pardeep Chaudhary, Naresh Kumar and Dinesh Kumar (appellants herein) to test the validity of the order of learned

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

Single Judge passed in CWP No.4071 of 2023 on 12.12.2024 titled ***Rakesh Kumar Vs. State of Himachal Pradesh and others***. The writ petition was allowed by coming to the conclusion that the certificates of experience of the appellants alongwith one Deepak Chaudhary have been issued by Shimla Cleanways i.e. the Outsource Agency and were not attested by the Executive Engineer and therefore, could not be treated as valid experience certificates. Resultantly, their appointments were quashed with a direction to re-assess the merit of all candidates, on the basis of experience certificate awarded by the Executive Engineer concerned and then offer appointment against the post that shall be vacated on account of the setting aside of the appointments of private respondents, which also included one Deepak Chaudhary (we are informed that after reassessment Deepak Chaudhary has still managed to make the grade).

2. A perusal of the Writ record would go on to show that the present appellants as such had firstly been proceeded against *ex parte* on 01.03.2022 and thereafter on an application being filed under Order 9 Rule 13, the said order was re-called. Time was granted to them to file reply on

the said date. However, they chose not to file reply and the matter was eventually decided after calling for the records on 12.12.2024 and the order was passed in open Court by the learned Single Judge.

3. In the present appeal now a notification dated 08.05.2020 is sought to be placed on record and support is sought to be taken from the said notification to the extent that the endorsement by the Executive Engineer was not required.

4. We are of the considered opinion that having been given a choice to file reply and having not done so, the appellants now cannot fall back and rely upon the notification and start building a fresh case to hold out that the writ petitioner was not qualified as such after having been arrayed as respondents themselves and having not filed any reply.

5. The reply of the official respondents has specifically held out that the requirement to file experience certificate was to be endorsed by the concerned Executive Engineer and thereafter only marks had to be awarded on the basis of experience. After noticing the said stand, the record had been called for by the learned Single Judge and the matter had been adjudicated upon, leading to the setting

aside of their appointments.

6. In such circumstances, the reliance can only be placed upon the stand of the State itself, wherein specific reply has been filed that it was the certificate endorsed by the Executive Engineer, which had to be taken into consideration, issued initially by the Outsourcing Agency. The needful has not been done. We cannot thus fault as such the reasoning given by the learned Single Judge, who has chosen to set aside the appointments.

7. It is not in dispute that the writ petitioner has been granted the appointment in question and other respondents No.6, 8, 9 and 11 namely Raman Kumar, Virender Singh, Deepak Chaudhary and Arun Kumar similarly situated as the appellants have been successful to retain their places in the recruitment process on account of the reshuffling of merit by discounting the certificates, not endorsed by Executive Engineer.

8. Resultantly, we do not find any plausible reasons as such to interfere in the well-reasoned order passed by the learned Single Judge, more so once the present appellants had chosen not to even contest the writ petition by filing the

reply.

9. In view of the above, the present appeal is dismissed alongwith pending applications, if any.

(G.S. Sandhawalia)
Chief Justice

8th September, 2025
(priti)

(Ranjan Sharma)
Judge