



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

Date of decision : 17.02.2025

1. LPA No. 465 of 2025 (O&M)

Haryana Public Service Commission ... Appellant

Versus

Jyoti Nagil and others ... Respondents.

2. LPA No. 481 of 2025 (O&M)

Haryana Public Service Commission ... Appellant

Versus

Lalit Kumar and others ... Respondents.

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

Present: Mr. Kanwal Goyal, Advocate, for the appellant.

SANJEEV PRAKASH SHARMA, J.

This order will dispose of two appeals bearing LPA Nos. 465 and 481 of 2025, as both arise out of common judgment.

2. The instant appeals have been preferred by the Haryana Public Service Commission assailing the judgment dated 18.11.2024 passed by the learned Single Judge whereby the writ petitions filed by the writ petitioners were allowed and the appellant-Commission was directed to ignore the elementary qualification of securing minimum 50% marks in interview/viva-voce and prepare the merit on the basis of the marks obtained and process the case of both the petitioners for appointment.

3. Learned counsel for the appellant submits that the learned Single Judge has fallen in error in directing to ignore the criteria introduced by the PSC on 25.08.2023 for declaring eligible qualification for appointment as 50% marks in the interview. He further submits that the



reasoning has been given in the criteria itself by the PSC and the same would not be hit by the judgment passed by the Supreme Court in *Tej Prakash Pathak and others vs Rajasthan High Court and others* (2024) 12 SCR 28 and it cannot be said that the rule of the game has been changed while the game was being played. The Commission has only enhanced the standard of selection and it cannot be said that such criteria for fixing of marks is incorrect.

4. We have heard learned counsel for the appellant at length but are unable to accept his contentions for the reasons which we incorporate as under:

4.1. The advertisement was published by the Commission on 21.07.2018 inviting applications for 17 different posts in Government departments. The post in question before the learned Single Judge was that of a Manager (Utility) in Haryana State Industrial and Infrastructure Development Corporation Limited which falls at Sr. No.8. In all, 7 posts were advertised, of which six were made to be filled from General Category and one post was marked for Scheduled Caste category. As per the advertisement, the essential qualifications laid down were as under:-

“2. Essential Qualifications:-

- i. *1st Class B.E/B.Tech in Civil/ Mechanical/ Electrical in Engineering with minimum 2 years relevant post qualification experience.*
- ii. *Should be proficient in computer.*
- iii. *Hindi/Sanskrit upto Matric Standard or Higher Education.”*

4.2. As per the announcement issued on 16.03.2021, the syllabus of the written test/ and the Scheme/ pattern of the written test provides as under:-

**“Scheme/Pattern of Written Tests:-**

- i. Objections Type Paper with Multiple Choice Questions.*
- ii. Number of Questions: 100*
- iii. Maximum Marks: 100*
- iv. Duration of Paper: Two Hours.*
- v. All Questions carry equal marks.*
- vi. For each wrong answer, one-fourth (0.25) mark shall be deducted.*

No candidate shall be called for the interview/ vive-voce unless he/she obtains at least fifty percent qualifying marks in the Written Test. However, for the candidates belonging to the Scheduled Castes, Scheduled Tribes, Backward Classes-A, Backward Classes-B, Economically Weaker Sections, Persons with Benchmarks Disabilities, Eligible Sports Persons and Ex-servicemen (but not Dependents of ESM) Categories, the qualifying marks for this purpose shall be forty five percent.”

4.3. The petitioners passed the written test and the result was declared on 14.09.2021. All the candidates who had obtained minimum qualifying marks, were held to be eligible for interview and it was stated in the result that the short-listing of eligible candidates for interview would be done after scrutiny of the documents on the basis of marks obtained by them. The candidates who had qualified the test for more than one post were asked to submit their documents on any of the dates mentioned for the respective posts as mentioned in the schedule. Thereafter, an announcement was made on 14.12.2021 by the Commission for interview wherein the dates of interview were finalized.

4.4. The candidates were called for the interview, for the post of Manager (Utility) on 23.12.2021. Individual call letters were issued to



candidates and for the post of Manager (Utility) only five candidates were selected in the result which was published on 29.08.2023. No candidate was declared as qualified for the Scheduled Caste category. The petitioners challenged the result.

4.5. It is submitted that the interviews were conducted on 25.08.2023 and during the interview, the Commission rejected/ ousted them from the selection on the ground that they did not obtain 50% in the interview/ viva-voce, although neither any such selection criteria was published nor it was informed to any candidate of minimum qualifying marks in the interview to be 50%. It is submitted that when the respondents had only provided 50% minimum marks as qualifying marks for the written examination, the Commission had no power or authority to lay down the minimum marks for interview for qualifying the test and by giving marks less than 50%, the writ petitioners have been illegally and arbitrarily ousted from the selection.

4.6. The said aspect was examined by the learned Single Judge where it has come on record that the distribution of marks was set at 87.5 marks for the written test and 12.5 marks for the interview, which meant that a candidate must secure in interview 6.25 marks i.e. 50%. This criteria as set up by the Commission on its own without making it public, was found to be a change of selection criteria by the learned Single Judge.

4.7. The learned Single Judge has relied on *K. Manjusree vs State of A.P.* 2008 (3) SCC 512 and the Constitution Bench judgment in *Tej Prakash Pathak*'s case (supra), which upheld the law in *K. Manjusree's* case (supra) as a good law. It has now by catena of judgments and finally by



the Constitution Bench of the Supreme Court held that the selection criteria cannot be changed midway unless the rules permit so.

5. In the present case, the selection criteria was published and announced in 2021. Interview was conducted for the concerned posts on 25.08.2023 and on the same date, the criteria was unilaterally changed by the PSC in meeting of all the members, whereby, they have fixed the criteria of marks obtained in the written test as 87.5 marks and in interview as 12.5 marks. The selection criteria was further changed mentioning that “*a combined test for various posts in different departments was held on 14.09.2021. Since it was a generic test and the subject knowledge of the candidate was not tested, hence no candidate shall be considered to have qualified the interview unless she/he obtains at least 50% marks (UR category) and 45% (all reserved categories) of the total marks allotted for the interview.*”

6. We have examined the said selection criteria. Apart from the observations made by the learned Single Judge to which we concur, we find that it is a case where the Commission has laid down and changed the criteria. The same did not find place in the advertisement nor any corrigendum in this regard was issued. Thus, a completely new criteria which neither forms part of the rules nor was contemplated at the time of issuing of advertisement, has been introduced to exclude the candidates declaring them to be not qualified if they secured less than 50% marks in the interview. The total marks of interview have been also laid down as 12.5. No candidate, who is appearing for interview, would come to know that he has to appear and obtain minimum 50% marks. Resultantly, on account of introduction of such criteria, even though posts were available, the



candidates were declared ineligible by the PSC to fill up the total number of posts. Thus, it is apparent that the members of the PSC created a criteria with the purpose to select candidates whom they would give particular marks and declare them qualified leaving others as unqualified after giving them marks less than 50%. Such a decision would, therefore, suffer from bias, arbitrariness and nepotism.

7. There is a room available to the interviewing authority to pick and choose and deny other candidates from being placed in the merit itself by disqualifying them on the basis of awarding marks in interview. While such a criteria itself is bad in law, we find that the criteria was not even published for the candidates and, thus, it amounts to changing the rules of the game midway.

8. The law, as settled in *K. Manjusree*'s case (supra) and followed in *Tej Prakash Pathak*'s case (supra), therefore, has been correctly followed. The appeals are found to be devoid of merit and no interference is warranted in the judgment passed by the learned Single Judge. Both the appeals are, accordingly, dismissed.

9. All pending applications stand disposed of.

10. No costs.

(SANJEEV PRAKASH SHARMA)
JUDGE

17.02.2025
vs

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No