

LPA-835-2019 (O&M) with
XOBJL-2-2019 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(208)

LPA-835-2019 (O&M) with
XOBJL-2-2019 (O&M)
Date of Decision : 31.07.2025

Krishan Kumar

...Appellant

Versus

Ritu Beniwal and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. R.K. Malik, Sr. Advocate with
Mr. Varun Veer Chauhan, Advocate
for the appellant.

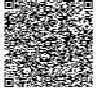
Mr. L.R. Sharma, Advocate for
Mr. Vivek Khatri, Advocate
for respondent No.1/cross-objector.

Mr. B.S. Rana, Sr. Advocate with
Mr. Nayandeep Rana, Advocate
for respondents No.2 and 3-University.

ASHWANI KUMAR MISHRA, J. (ORAL)

1. This appeal arises out of an order dated 03.04.2019, passed by the learned Single Judge, whereby, the appointment of the appellant on the post of Assistant Professor, has been quashed. It is submitted that grounds urged in the petition do not justify passing of an order by the writ Court, to quash the appointment of the appellant.

2. Facts as are apparent on record are that the post of Assistant Professor was advertised by Guru Jambheshwar University of Science and Technology, Hisar. The appellant along with several other persons, including

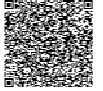


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the respondent No.1/writ petitioner applied for the said post. 10 persons appeared for interview, and the Selection Committee, on the basis of evaluation of their academic record, as well as, domain assessment and interview, selected the appellant for appointment. The appointment was given effect to, and the appellant started working. It has also been brought on record that prior to his appointment as Assistant Professor, the appellant was working in the Department of Technical Education, on the post carrying similar pay scale, for the last 16 years. The Selection Committee, which had shortlisted the appellant, consisted the following members:-

- | | |
|--|--|
| 1. Prof. Dinesh Kumar, Dean,
Faculty of Engg. & Technology | (in the Chair) |
| 2. Prof. Aseem Miglani,
Deptt. of Mathematics, CDLU, Sirsa | Chancellor's Nominee |
| 3. Prof. Dharminder Kumar,
Deptt. of Comp. Sc. & Engg. | Chairperson |
| 5. Prof. R.K. Datta, Ex-President CSI,
48-A, Pocket-C, Gangotri Enclave,
Greater Kailash-II, New Delhi | Subject Expert |
| 6. Prof. Vijay Katiyar, Head,
Deptt. of Information & Technology,
MMEC, Mullana | Subject Expert |
| 7. Prof. R.K. Chauhan, Chairman,
Deptt. of Computer Science, KUK | could not attend |
| 8. Prof. (Mrs.) Sumitra Singh,
Deptt. of Pharmaceutical Sciences | Women Representative and
Scheduled Caste Representative |
| 9. Prof. R.S. Jaglan,
Registrar | Secretary |

3. The selection and appointment of the appellant came to be challenged by the respondents on the solitary ground that the appellant was related to the then Vice Chancellor. The only pleading made in the writ petition to assail the appointment is contained in paragraph No.4 (ii and iv) of



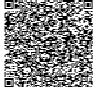
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the writ petition. The respondent/petitioner had highlighted that the marks obtained by the appellant in interview were much more than the marks obtained by all other persons, and therefore, the allegation of bias was established. In the writ petition, apart from the University and its Registrar, the only other person impleaded was the appellant-Krishan Kumar.

4. The writ petition has been allowed by the learned Single Judge, after noticing the marks awarded at the stage of interview of 10 candidates, who had appeared for the post. Paragraph Nos.7 and 9 of judgment of learned Single Judge, enumerates the criteria for the post of Assistant Professor, as also the marks awarded to each candidates. These two paragraphs are reproduced hereunder :-

“7. Before proceeding further, it would be instructive to reproduce the criteria of awarding marks adopted by the respondents for the selection to the post of Assistant Professor which is under challenge, is as below:

Criteria for the posts of Assistant Professor	
Total Marks-100	Maximum
A) Academic Record and Research Performance	50 marks
1. Academic Record	25 marks
a) Minimum academic qualifications for eligibility	00 Marks
b) 1 mark each for obtaining more than 55% but less than 60% marks at Matric/10+2, Bachelor's and Master's level	03 Marks
c) 4 marks each for 1 st Division in Matric/10+2, Bachelor Degree and Master's Degree	12 Marks
d) Additional marks for obtaining 75% or above marks at Master's level	05 Marks.
e) M.Phil	08 Marks
OR	
Ph.D.(provided it is not considered for eligibility)	
2. Research Performance/Publications (with respect to number and quality)	25 Marks
a) in International Journals with ISSN No.	
b) In National Journals with ISSN No.	05 Marks per research paper



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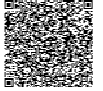
c) i) in other Journals (excluding conference/seminar proceeding) with ISSN No. ii) Books Note: The Research Papers/ Books may be authored/co-authored by the candidate.	04 Marks per research paper 03 Marks per research paper or book
B) Domain knowledge and teaching skills 1. Domain Knowledge with respect to: i) Conceptual clarity ii) Overall subject knowledge iii) Latest developments in the subject 2. Teaching Experience/Skills (01 mark for each year of teaching experience, subject to maximum of 5 years experience)	30 Marks 25 Marks 05 Marks
C) Interview With respect to- i) Communication skills ii) Confidence level iii) Quality of response iv) Overall personality	20 Marks

8. xxx xxx

9. *A perusal of the merit list, prepared by the Selection Committee, of all the 10 candidates invited for interview, which is not under dispute, for the reasons stated hereinafter makes an interesting reading and the same is reproduced herein below:-*

Merit List prepared by the Selection Committee for Selection to the post of Assistant Professor for Scheduled Caste Category in the Dept. of Computer Science & Engineering as per the Criteria approved by the Executive Council vide Resolution No.13 of its meeting held on 13.09.2012 in the light of the criteria proposed by the UGC for selection to the post of Assistant Professor

Sr. No.	Diary No.	Roll No.	Name of Candidate	Father's Name	Category	Total weightages=100 Marks			Total Score of Candidate	
						a)Academic Record and research performance/ publication=50 marks	b) Assessment of domain			c) Interview performance=20 Marks
							Domain knowledge=25 Marks	Teaching experience/skill=5 Marks		
1	204	1401190	Sh. Hawa Singh	S/o Sh. Basanti Ram	SC	12	7	5	8	32
2	205	1401191	Sh. Kuldeep Singh	S/o Sh. Dalbir Singh	SC	13	7	2	7	29
3	174	1401164	Ms. Ritu Baniwal	D/o Sh. Des Raj Baniwal	SC	32	7	2	6	47
4	21	1401018	Sh. Manjeet Singh	S/o Jagbir Singh	SC	27	9	0	8	44
5	79	1401073	Ms. Shailja Kumari	W/o Sh. Satpal Singh	SC-B	17	9	0	8	34
6	126	1401119	Sh. Ashok	S/o Sh. Suresh	SC	17	9	0	8	34



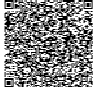
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			Kumar	Kumar						
7	241	1401225	Sh. Rajiv Kumar	S/o Sh. Harkishan Lal	SC	30	6	5	6	47
8	219	1401205	Ms. Pooja	D/o Sh. Dharmvir Bhoria	SC	22	8	0	7	37
9	212	1401198	Ms. Meenakshi Kangra	D/o Sh. Billu Ram Kangra	SC	17	6	1	6	30
10	193	1401182	Sh. Krishan Kumar	S/o Sh. Prabhu Dayal	SC	6	22	5	16	49

5. The reason assigned by learned Single Judge, to hold the appointment of the appellant bad in law on the ground of malice, is contained in Paragraph 15 of the judgment, which is also reproduced hereinafter:-

“15. Having carefully perused the record and the merit list, I am of the view that reasonable inference can be drawn that Selection Committee has resorted to favoritism and the marks have been awarded by misusing the discretion vested with the Selecting Authority. The malice in the present case is writ large as reflected from the merit list. It is unfathomable that every candidate, who was found highly meritorious in academic record, was found to be least meritorious in domain knowledge and interview.”

6. Mr. R. K. Malik, learned senior counsel for the appellant argues that the wife of the appellant was distinctly related to the Vice Chancellor of the University, but that in itself would not constitute sufficient justification for the writ Court to have interfered with the appointment of the appellant, or to return a finding that the recruitment was vitiated on account of malice. It is highlighted that the Vice Chancellor was himself was not a member of the Selection Committee, and no allegation of malice was levelled against any of the members of the Selection Committee. It has also been pointed out that neither the Vice Chancellor, nor any of the members of the Selection Committee were impleaded as a party respondent. Learned senior counsel for



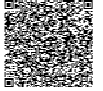
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the appellant also points out that out of 09 members, Prof. Assem Miglani was a nominee of the Chancellor, as well as there existed two other Subject Experts, who were not the employees of the University. It is submitted that merely because higher marks at the stage of interview was awarded to the appellant, would not be a conclusive fact of appointment suffering from malice.

7. Learned counsel for the respondent No.1/petitioner, however, contends that the facts of the present case clearly establish malice, apparent on the face of the record, and therefore, non-impleadment of Vice Chancellor or member of the Selection Committee, would not be material. Learned senior counsel for respondents No.2 and 3-University contends that there was no malice in selection of the appellant. The University, therefore, has supported the claim of the appellant.

8. Having heard learned counsel for the respective parties, we find that the recruitment was made by a Selection Committee, consisting of 09 members. Eight of these nine members had actually participated in the selection process. Out of these 08 members, 03 members were not the officials of the University. No allegation of any *mala fide* has been levelled against any of the members of the Selection Committee. It is also apparent that the Vice Chancellor himself was not the member of the Selection Committee. The only fact to allege malice in the selection proceedings, is the award of higher marks to the appellant at the stage of interview.

9. Having given our thoughtful consideration, we are not persuaded to endorse the view taken by the learned Single Judge, that merely because higher marks are awarded to the appellant at the stage of interview, it has to be inferred that selection is tainted by malice. In matters of selection where the



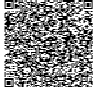
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selection board consists of Professors, not only of the University, but of other Universities, the allegation of bias cannot be inferred. We have perused the writ petition filed by the respondents wherein, absolutely no allegation of any kind is levelled against any member of the Selection Committee. The Vice Chancellor is otherwise not impleaded, nor was he part of the Selection Committee. It is well settled that unless a person is impleaded in his individual capacity, the allegation of *mala fide* cannot be read against such person. This is because in the absence of impleadment of such person, the concerned person will have no opportunity to controvert the allegations made in the writ petition.

10. Coming to the award of marks at the stage of interview, there can be justifiable reasons for awarding higher marks to a candidate. In the facts of the present case, the appellant has been working with the Department of Technical Education, for the last 16 years. There is no dispute with regard to the qualification of the appellant for the post in question. High experience can be a ground for grant of higher marks at the stage of interview. Even otherwise, this Court would not be justified in interfering with the conclusion of the Selection Committee, unless cogent reasons are furnished.

11. In view of the above, we are not inclined to sustain the conclusion drawn by the learned Single Judge, to set aside the appointment of the appellant. Consequently, this appeal succeeds and is **allowed**. The judgment and order dated 03.04.2019, passed by the learned Single Judge, is hereby, **set aside**.

12. In view of the fact that appeal has been allowed, and judgment of learned Single Judge has been set aside, the cross-objections filed by the respondent No.1/petitioner must fail and is accordingly **dismissed**.



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13. Pending miscellaneous applications also stands disposed of.

**(ASHWANI KUMAR MISHRA)
JUDGE**

**(KULDEEP TIWARI)
JUDGE**

July 31, 2025
Manpreet

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