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Neutral Citation No. - 2025:AHC:117591

Reserved on 16.07.2025

Delivered on 21.07.2025

Court No. - 5

Case :- WRIT - A No. - 5280 of 2019

Petitioner :- Shiv Charan And 15 Others

Respondent :- State Of U.P. Through Principal Secretary Energy, Lucknow And 14 Others

Counsel for Petitioner :- Seemant Singh

Counsel for Respondent :- Abhishek Srivastava,C.S.C.,Vineet Kumar Singh

Connected with

1. Case :- WRIT - A No. - 6643 of 2019

Petitioner :- Shri Pal Kashyap And 5 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ashok Kumar Upadhyay,Manoj Kumar Dubey,Vipul Kumar Dubey

Counsel for Respondent :- Abhishek Srivastava,C.S.C.

2. Case :- WRIT - A No. - 23800 of 2018

Petitioner :- Avaneesh Kumar Pandey And 76 Others

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Rahul Agarwal

Counsel for Respondent :- Abhishek Srivastava,C.S.C.,Rajesh Kumar Srivastava

3. Case :- WRIT - A No. - 24786 of 2018

Petitioner :- Amol Sharma And 32 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Seemant Singh

Counsel for Respondent :- Abhishek Srivastava,C.S.C.

4. Case :- WRIT - A No. - 2925 of 2019

Petitioner :- Sarvesh Kumar Bind And 2 Others

Respondent :- State Of U.P. Through Its Principal Secretary Energy, Lucknow And 4 Others

Counsel for Petitioner :- Ram Manohar Kashyap

Counsel for Respondent :- Abhishek Srivastava,Anadi Krishna Narayana,C.S.C.

5. Case :- WRIT - A No. - 5283 of 2019

Petitioner :- Ankit Pathak And 13 Others

Respondent :- State Of U.P. Through Principal Secretary Energy, Lucknow And 19 Others

Counsel for Petitioner :- Seemant Singh

Counsel for Respondent :- Abhishek Srivastava,C.S.C.

6. Case :- WRIT - A No. - 5659 of 2019

Petitioner :- Rupendra Pal Singh And 11 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Manoj Kumar Dubey, Prashant Mishra, Radha Kant Ojha, Sr. Advocate, Tarun Agrawal, Vipul Kumar Dubey

Counsel for Respondent :- Abhishek Srivastava, C.S.C.

7. Case :- WRIT - A No. - 6980 of 2019

Petitioner :- Jai Kumar

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Vijendra Tripathi

Counsel for Respondent :- Abhishek Srivastava, C.S.C.

8. Case :- WRIT - A No. - 7087 of 2019

Petitioner :- Chandradev And 2 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Chandra Prakash Pal

Counsel for Respondent :- Abhishek Srivastava, C.S.C.

9. Case :- WRIT - A No. - 8476 of 2019

Petitioner :- Saurabh Kumar

Respondent :- State Of U.P. Through Its Secretary Energy, Lucknow And 3 Others

Counsel for Petitioner :- Dinesh Kumar Misra

Counsel for Respondent :- Abhishek Srivastava, C.S.C.

10. Case :- WRIT - A No. - 8684 of 2019

Petitioner :- Rajnesh Kumar

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Dinesh Kumar Misra

Counsel for Respondent :- Abhishek Srivastava, C.S.C., Santosh Kumar Shukla

11. Case :- WRIT - A No. - 9009 of 2019

Petitioner :- Vidya Sagar And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Manoj Kumar Dubey, Prabhakar Awasthi, Vipul Kumar Dubey

Counsel for Respondent :- Abhishek Srivastava, C.S.C.

12. Case :- WRIT - A No. - 587 of 2020

Petitioner :- Rakesh Kumar Mishra And 8 Others

Respondent :- State Of U.P. And 14 Others

Counsel for Petitioner :- Seemant Singh

Counsel for Respondent :- Abhishek Srivastava, C.S.C.

13. Case :- WRIT - A No. - 1323 of 2020

Petitioner :- Manoj Kumar And Another

Respondent :- State Of U P And 8 Others

Counsel for Petitioner :- Prabhakar Dwivedi, Sanjay Singh

Counsel for Respondent :- C.S.C.

14. Case :- WRIT - A No. - 2637 of 2020

Petitioner :- Devendra Mohan Bhatnagar And Another

Respondent :- State Of U P And 12 Others

Counsel for Petitioner :- Manoj Kumar Dubey, Vipul Kumar Dubey

Counsel for Respondent :- Abhishek Srivastava,C.S.C.,Pankaj Kumar Shukla

Hon'ble Saurabh Shyam Shamshery,J.

1. The Electricity Service Commission, U.P. Power Corporation Limited, issued an Advertisement dated 17.02.2018 for initiating recruitment process to fill up 664 vacant posts of Technician Grade-2 Electric (Trainee) in U.P. Power Transmission Corporation Limited and 2115 vacant posts of Technician Grade-2 Electric (Trainee) in U.P. Power Corporation Limited. Relevant part of Advertisement, which are essential to decide the controversy involve in present cases, is reproduced hereinafter:

"विज्ञापित पद पर आवेदकों की संख्या अधिक होने की स्थिति में ऑन-लाइन परीक्षा (CBT) एक से अधिक पालियों /दिवसों में कराई जाएगी। विभिन्न शिफ्ट के प्रश्नपत्रों के मूल्यांकन के पश्चात Normalization method (CBT के प्रथम एवं द्वितीय भाग में) श्रेष्ठता निर्धारण में प्रयुक्त होगा।"

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"11. **चयन प्रक्रिया:** चयन लिखित परीक्षा (CBT) के आधार पर किया जायेगा। लिखित परीक्षा का प्रश्न पत्र दो भागों का होगा, जिसकी अवधि 03 घंटे की होगी:-

प्रथम भाग:-

(1) प्रथम भाग की लिखित परीक्षा में NIELIT के "CCC" स्तर का कम्प्यूटर ज्ञान से सम्बन्धित वस्तुनिष्ठ प्रकार का प्रश्न पत्र होगा जिसमें 50 प्रश्न होंगे। प्रत्येक प्रश्न 01 अंक का होगा अर्थात् यह परीक्षा अधिकतम 50 अंकों की होगी। प्रत्येक गलत उत्तर के लिये ऋणात्मक 1/4 अंक प्रदान किये जायेंगे अर्थात् 1/4 अंक की अतिरिक्त कटौती की जायेगी।

(2) कम्प्यूटर ज्ञान की प्रथम भाग की परीक्षा में कम से कम 20 अंक प्राप्त करना अनिवार्य होगा अन्यथा की स्थिति में सम्बन्धित अभ्यर्थी को अर्ह न मानते हुये उसकी लिखित परीक्षा के द्वितीय भाग का मूल्यांकन नहीं किया जायेगा।

(3) कम्प्यूटर ज्ञान के प्रथम भाग में अर्जित अंक श्रेष्ठता (मेरिट) निर्धारण हेतु जोड़े नहीं जायेंगे।

द्वितीय भाग:-

द्वितीय भाग में निम्नांकित पाठ्यक्रम से सम्बन्धित वस्तुनिष्ठ प्रकार का प्रश्न पत्र होगा जिनके अधिकतम अंक सम्मुख अंकित हैं। प्रत्येक प्रश्न 01 अंक का होगा एवं प्रत्येक गलत उत्तर के लिये ऋणात्मक 1/4 अंक प्रदान किये जायेंगे अर्थात् 1/4 अंक की अतिरिक्त कटौती की जायेगी।

क्र 0 सं 0	पाठ्यक्रम	प्रश्नों की संख्या	अधिकतम अंक
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1	सामान्य अध्ययन एवं तार्किक ज्ञान	20	20
2	सामान्य हिन्दी (हाईस्कूल सामान्य स्तर)	15	15
3	सामान्य अंग्रेजी (हाईस्कूल सामान्य स्तर)	15	15
4	तकनीकी विषयक ज्ञान	150	150
		कुल	200

नोट:- चयन हेतु द्वितीय भाग की परीक्षा में कम से 33.5% प्रतिशत अंक प्राप्त करना अनिवार्य होगा अर्थात् ऐसे अभ्यर्थी जो 67 अंक से कम अंक प्राप्त करेंगे वे चयन प्रक्रिया से बाहर हो जायेंगे।"

2. All petitioners before this Court, being qualified to participate in above referred recruitment process, have appeared in both part of online examination, i.e., first and second. Most of the petitioners were qualified in first part of examination, therefore, their marks of second part were calculated. Normalization was applied firstly on raw marks of first part of examination who scored more than 20 marks and subsequently on raw marks of second part of examination. Admittedly, petitioners' marks obtained in second part of examination, after normalization, were less than the cut off marks, therefore, they were not selected in final select list dated 08.03.2019 issued by Secretary, Electricity Service Commission, Uttar Pradesh Power Corporation Limited, Lucknow.

3. In aforesaid circumstances, petitioners have approached this Court and the prayers made in leading writ petition, i.e., Writ-A No. 5280 of 2019, are reproduced hereinafter:

"a) Issue a writ, order or direction in the nature of Certiorari calling for the record and quashing the impugned final select list dated 08.03.2019 (Annexure No.7 to the Writ Petition) issued by Secretary, Electricity Service Commission, Lucknow, prepared on the basis of merit after having been successful in document verification.

b) Issue a writ, order or direction in the nature of Mandamus directing the respondents to redrew the final select the dated 08.03.2019 by applying the process of normalization uniformly as it has been applied in respect of candidates having appeared in online written examination (computer based

test) in first and second shifts on 25.01.2019 or in alternative final select list dated 08.03.2019 may be redrawn on the basis of raw marks obtained by the candidates in online written examination (computer based test) without applying process of normalization in selection of Technician Grade-2 Electric (Trainee) in pursuance of the advertisement dated 17.02.2018 issued by the Secretary, Electricity Service Commission, Lucknow,

c) Issue any other suitable writ, order or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

d) Award the cost of the writ petition to the petitioners."

4. In other connected writ petitions similar reliefs were sought.

5. Sri Seemant Singh and Sri Vipul Kumar Dubey, learned counsel for petitioners, have argued at length and crux of their arguments are mentioned hereinafter:

(a) Recruitment was conducted in terms of regulation dated 03.07.2017 issued for U.P. Power Corporation Limited wherein entire procedure was mentioned, however, there application of normalization was not referred. This fact has not been denied by learned counsel for respondents. Counsel for rival parties have also not disputed that in the same regulation it was specifically mentioned as follows:

"3. परीक्षा प्रक्रिया से सम्बन्धित अन्य ऐसे बिन्दु जिनका इस विनियमावली में कोई उल्लेख नहीं है, के सम्बन्ध में निर्णय लेने का अधिकार अध्यक्ष, विद्युत सेवा आयोग को प्राप्त होगा।"

(b) Advertisement does not contemplate that raw marks obtained by each candidate in first part of examination (minimum required marks were 20) were liable to be normalized and only on normalized marks, if they got more than 20 marks, answer sheet of second part of examination would be checked. By applying normalization to first part of examination, benefit was granted to such candidates also who though got more than minimum marks, i.e., 20 marks, whereas their raw marks were much less than 20 and for that learned counsel has referred answer sheets of some of the selected candidates (source of answer sheets is not on record). Petitioners have claimed that their respective raw marks in first part of examination were

more than 20, therefore, even without normalization, their answer sheets of second part of examination were required to be checked.

(c) Some arguments are also raised with regard to manner of normalization, however, on bare perusal of manner of normalization mentioned in counter affidavit, such argument does not survive.

6. Per contra, Sri Abhishek Srivastava, Advocate as well as Sri H.N. Singh, learned Senior Advocate assisted by Sri Vineet Kumar Singh, Advocate appearing for respondents, referred the counter affidavit that petitioners' score in second part of examination after normalization was less than the cut off marks, therefore, they were not included in final select list. Petitioners have participated in selection process, with open eyes after going through the contents of advertisement, without raising any objection and once they were not selected in final select list, they approached this Court challenging rules of game, which is legally impermissible.

7. Learned counsel for respondents vehemently denied the contentions raised on behalf of petitioners that there was no condition for normalization of raw marks in first part of examination and they vehemently referred above mentioned part of advertisement that marks were to be determined on basis of normalization method of both first and second part of CBT though for determining merit the marks obtained after normalization in second part would only be taken into account.

8. Learned counsel for respondents also submitted that advertisement was issued by Secretary, Electricity Service Commission on behalf of Chairman, Electricity Service Commission, therefore, any challenge to conditions of advertisement on ground being issued without jurisdiction is legally unsustainable. Regulation dated 03.07.2017 specifically empowered Chairman, Electricity Service Commission to take a decision on issues which were not mentioned in regulation.

9. I have heard learned counsel for parties and perused the material available on record.

10. It is not under much dispute that in advertisement it was specifically mentioned that "विज्ञापित पद पर आवेदकों की संख्या अधिक होने की स्थिति में ऑन – लाइन परीक्षा (CBT) एक से अधिक पालियों /दिवसों में कराई जाएगी। विभिन्न शिफ्ट के प्रश्नपत्रों के मूल्यांकन के पश्चात Normalization method (CBT के प्रथम एवं द्वितीय भाग में) श्रेष्ठता निर्धारण में प्रयुक्त होगा।", therefore, all petitioners were well aware that final merit list will be prepared on basis of marks obtained after normalization as well as it was also specifically mentioned that normalization method will be applied on both examinations, i.e., first and second part.

11. The argument of learned counsel for petitioners that raw marks obtained in first part of examination were wrongly normalized or contrary to conditions of advertisement, therefore, does not survive being contrary to record.

12. In aforesaid circumstances, it is evident that once petitioners have participated in recruitment process and when their names were not found in final select list, they approached this Court challenging the process of application of normalization, however, the Court is of the view that when with open eyes petitioners have participated in recruitment process, they cannot challenge the rules of game after the game was over.

13. In this regard the Court takes note of a judgment passed by Supreme Court in **State of Uttar Pradesh vs. Karunesh Kumar and others, 2022 SCC OnLine SC 1706** wherein it was reiterated that it is settled position that unsuccessful candidate cannot turn back and assail the selection process. Relevant part of the judgment is reproduced hereinafter:

“21. A candidate who has participated in the selection process adopted under the 2015 Rules is estopped and has acquiesced himself from questioning it thereafter, as held by this Court in the case of Anupal Singh (supra):

“55. Having participated in the interview, the private respondents cannot challenge the Office Memorandum dated 12-10-2014 and the selection. On behalf of the appellants, it was contended that after the revised Notification dated 12-10-2014, the private respondents participated in the interview without protest and only after the result

was announced and finding that they were not selected, the private respondents chose to challenge the revised Notification dated 12-10-2014 and the private respondents are estopped from challenging the selection process. It is a settled law that a person having consciously participated in the interview cannot turn around and challenge the selection process.

56. Observing that the result of the interview cannot be challenged by a candidate who has participated in the interview and has taken the chance to get selected at the said interview and ultimately, finds himself to be unsuccessful, in Madan Lal v. State of J&K [(1995) 3 SCC 486 : 1995 SCC (L&S) 712], it was held as under : (SCC p. 493, para 9)

“9. ... The petitioners also appeared at the oral interview conducted by the Members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned. Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted.”

57. In K.H. Siraj v. High Court of Kerala [(2006) 6 SCC 395 : 2006 SCC (L&S) 1345], it was held as under : (SCC p. 426, para 73)

“73. The appellant-petitioners having participated in the interview in this background, it is not open to the appellant-petitioners to turn round thereafter when they failed at the interview and contend that the provision of a minimum mark for the interview was not proper.”

58. In Union of India v. S. Vinodh Kumar [(2007) 8 SCC 100 : (2007) 2 SCC (L&S) 792], it was held as under : (SCC p. 107, para 19)

“19. In Chandra Prakash Tiwari v. Shakuntala Shukla [(2002) 6 SCC 127 : 2002 SCC (L&S) 830]

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It was further observed : (SCC p. 149, para 34)

“34. There is thus no doubt that while question of any estoppel by conduct would not arise in the contextual facts but the law seem to be well settled that in the event a candidate appears at the interview and participates therein, only because the result of the interview is

not “palatable” to him, he cannot turn round and subsequently contend that the process of interview was unfair or there was some lacuna in the process.”

59. Same principle was reiterated in Sadananda Halo v. Momtaz Ali Sheikh [(2008) 4 SCC 619 : (2008) 2 SCC (L&S) 9] wherein, it was held as under : (SCC pp. 645-46, para 59)

“59. It is also a settled position that the unsuccessful candidates cannot turn back and assail the selection process. There are of course the exceptions carved out by this Court to this general rule. This position was reiterated by this Court in its latest judgment in Union of India v. S. Vinodh Kumar [(2007) 8 SCC 100 : (2007) 2 SCC (L&S) 792] The Court also referred to the judgment in Om Prakash Shukla v. Akhilesh Kumar Shukla [1986 Supp SCC 285 : 1986 SCC (L&S) 644], where it has been held specifically that when a candidate appears in the examination without protest and subsequently is found to be not successful in the examination, the question of entertaining the petition challenging such examination would not arise.”

14. The Court also takes note of a judgment passed by Supreme Court in the case of **State of U.P. and others vs. Atul Kumar Dwivedi and others, (2022) 11 SCC 578** relied on by learned counsel for respondents that in the event when examination is conducted in more than one shifts, the process to ascertain merit by applying normalization method on raw marks was accepted as a legal method, therefore, also any argument against application of such method is sans merit.

15. The last argument of learned counsel for petitioner was that some seats are still vacant on which petitioners may be considered in accordance to their respective merit. However, the Court is of the opinion that selection process is of the year 2018 and to consider the aforesaid prayer after about 7 years would be in the teeth of a judgment passed by Supreme Court in the case of **State of Uttar Pradesh vs Pankaj Kumar, (2022)1 SCC 335**.

16. In view of above discussion, the Court is of the opinion that the relief sought by petitioners cannot be granted.

17. The writ petitions are accordingly dismissed.

Order Date :- 21.07.2025

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