

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

114

CWP No.14634 of 2021  
Date of decision: 09.08.2021

Arun Saini

...Petitioner

Versus

Indira Gandhi University Meerpur, Rewari  
and another

...Respondents

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

**Present:** Mr. Dharmender Singh Rawat, Advocate for the petitioner.  
Mr. Kuldeep Tiwari, Advocate for the respondent-University.

**HARSIMRAN SINGH SETHI, J. (ORAL)**

The present petition has been filed by the petitioner challenging the appointment of respondent No.2 on the post of Lab Attendant on the ground that the petitioner has secured more marks than the respondent No.2 but, respondent No.2 has been preferred over and above the petitioner.

As per the averments made in the petition, according to the petitioner, out of the total 100 marks, he has secured 35.55 marks, whereas, respondent No.2 has secured 35.15 marks. Learned counsel for the petitioner relies upon the information, which has been supplied to him under the Right to Information Act, 2005 which has been attached with the present petition as Annexure P/5 to contend that from the calculations of marks

which has been done on the basis of criteria already fixed which includes marks granted in academic merit, typing speed and test in computers, it is clear that the score of respondent No.2 is 35.15 marks i.e. less than the petitioner, who secured 35.55 marks.

Learned counsel appearing for the respondent-University who has appeared keeping in view service of advance copy of the petition, submits that probably the present petition has been filed by the petitioner without knowing the actual facts. Learned counsel for the respondent-University further submits that the actual marks of respondent No.2 were 38.15, whereas, the marks of the petitioner were 35.55. Learned counsel for the respondent-University has also produced merit list duly signed by the Selection Committee, wherein, respondent No.2 is at merit position No.3 and the petitioner is at merit position No.7 of the merit list.

Learned counsel for the respondent-University further submits that reliance which is being placed by the learned counsel for the petitioner on Annexure P/5 is not correct. Learned counsel for the respondent-University submits that initially the marks of each candidate, who had applied for the post of Lab Attendant after calculation were notified on the website seeking their objections, if any and Annexure P/5 is the tentative merit prepared of respondent No.2 at the time of seeking objections. Learned counsel for the respondent-University further submits that respondent No.2 raised the objections to the merit assigned in Annexure P/5 that he is Post Graduate in Computer Applications, for which qualification, he is entitled for additional three marks, which are missing in Annexure P/5 and, therefore, the said allocation of marks should be corrected. As per the learned counsel for respondent No.1, after verifying the claim so raised by

the respondent No.2, he was granted three additional marks for the said Post Graduate degree in Computer Applications by the Selection Committee and thereafter, his final score came to 38.15.

Learned counsel for the respondent-University informed this Court that the objections were raised by not only respondent No.2 but other candidates as well including the petitioner for allocation of marks which were also considered by the Selection Committee. Tentative merit prepared vide Annexure P/5 was put on website by the department on 12.01.2021 and the candidates were required to upload their objections, if any, alongwith the required documents by 16.01.2021, which facts is also clear from Annexure P/5, wherein, it has been mentioned that the documents in support of the claim, needs to be submitted by 16.01.2021. The objections so raised by the candidates including the petitioner as well as respondent No.2 were put before the Selection Committee and the final result was prepared by the Selection Committee in their meeting held on 22.01.2021, wherein, respondent No.2 scored 38.15 marks and petitioner scored 35.55 marks .

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the facts and circumstances of the present case, the reliance which is being placed by the petitioner on Annexure P/5 to contend that total marks of respondent No.2 as per criteria fixed by the respondent-University comes to 35.15 is not correct. Annexure P/5 was only a provisional merit of a candidate uploaded by the respondent-department to seek objections, if any, from the candidates by 16.01.2021 along with supporting documents. Respondent No.2 as well as petitioner raised objections to the provisional merit wherein, their marks were depicted as

uploaded on 12.01.2021. As per the respondent-University the objections were filed by respondent No.2 on 13.01.2021, whereas, the petitioner raised his objections on the last day i.e. 16.01.2021 at 2.30 p.m. therefore, the reliance being placed by the petitioner on Annexure P/5, which is only a tentative merit prepared by the respondent-University is incorrect and the challenge to the appointment of respondent No.2 on the post of Lab Attendant by placing reliance on Annexure P/5 is also misplaced and cannot be accepted.

The reason given by respondent-department for enhancing the marks of respondent No.2 from 35.15 to 38.15 is that the respondent No.2 is Post Graduate in Computer Applications, for which qualification as per the criteria, he is entitled for three additional marks and by adding three marks for the said qualification of Post Graduation in Computer Applications his total score became 38.15, which is more than the petitioner, who had secured 35.55 marks.

Learned counsel for the petitioner submits that in case the order dated 12.01.2021 (Annexure P/5) was a provisional merit prepared by the respondent-University, the same should not have been given to the petitioner under the Right to Information Act, 2005 when asked about the details of the merit of respondents No.2, rather the actual details of the result of respondent No.2 should have been provided to him so as to avoid any confusion.

In my opinion, this grievance is correct. Once the result of respondent No.2 was being given to the petitioner under the Right to Information Act, 2005, the same should have been given with due diligence.

Annexure-P/5 which was only a provisional result should not have been

given to the petitioner under the Right to Information Act, 2005. Final merit of the candidates should have been furnished to the petitioner by the department so as to avoid any confusion. The confusion has been created by the respondent-University, which has led to the filing of the present petition on behalf of the petitioner.

Keeping in view the facts and circumstances of the present case, no ground is made out to interfere in the selection of respondent No.2 to the post of Lab Attendant, accordingly, the present writ petition is dismissed.

**August 09, 2021***aarti***(HARSIMRAN SINGH SETHI)  
JUDGE***Whether speaking/reasoned : Yes/No**Whether reportable : Yes/No*