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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 11.12.2020
Pronounced on : 12.01.2021

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W.P.(C) 5516/2020 & CM No.19867/2020 (for interim direction)

ABHISHEK SHARMA Petitioner
Through: Mr. Ankur Chhibber, Mr. Anshuman
Mehrotra and Mr. Nikunj Arora, Advocates

versus

AIRPORTS AUTHORITY OF INDIA AND ORS Respondents
Through: Ms. Anjana Gosain, Ms. Shalini Nair
and Ms. Aditti Amitabh, Advocates

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

1. Petitioner assails the order dated 19.05.2020 whereby his representations dated 21.03.2020, 30.03.2020 and 02.04.2020 were rejected by the Respondents and also seeks a direction to allow the Petitioner to appear before an independent Board/Committee set up by the Respondents to conduct a fresh Physical Endurance Test (hereinafter referred to as "PET") and if found fit appoint him as Junior Assistant (Fire Service) against the unfilled vacancies in the Northern Region with all consequential benefits.
2. The narrative of facts as set out in the petition is that on being eligible as per the eligibility criteria, the Petitioner applied against an

Advertisement issued by the Respondents on 20.09.2017 for recruitment to 84 posts of Junior Assistant (Fire Service) NE-4 level at various Airports in the Northern Region. Applications were invited from eligible candidates who were domicile of Delhi, Punjab, Uttar Pradesh, Uttarakhand, Haryana, Himachal Pradesh, Jammu & Kashmir, Rajasthan and Madhya Pradesh. Petitioner is a domicile of Rajasthan and pursuant to application, an admit card was issued for written examination scheduled on 10.12.2017, which the Petitioner cleared successfully. Petitioner was thereafter called for Medical Assessment, Driving Test and PET and the Petitioner appeared in the various tests, held on 22.03.2018.

3. According to the provisions of Clause 6 of the Advertisement, Petitioner was required to meet certain physical standards, to be declared 'Fit'. One of the criteria required to be met was 'Height' (for male candidates) being not less than 167 cms. Petitioner was however declared 'Unfit' as his height was measured and recorded as 166 cms and thus the Petitioner was disqualified to undertake the remaining tests. Knowing that the height of the Petitioner was more than 167 cms, he approached the Rajasthan State Hospital on 23.03.2018 and after examining him, the Doctor certified the height to be 168.9 cms. A second opinion was also taken from another Hospital at Jaipur which affirmed the measurement in the said certificate.

4. Vide email dated 24.03.2018, Petitioner informed the Respondents of the height assessment made by the Doctors in the two Hospitals, followed by a reminder dated 15.05.2018 and requested the Respondents to call him for a review examination. On 21.05.2018, Respondents issued a Notification of provisional list of selected candidates, which led to the

Petitioner approaching this Court by filing a writ petition being W.P.(C) 5945/2018, for quashing the Select List, without considering the case of the Petitioner based on the re-assessment of his height.

5. This Court vide order dated 29.05.2018 disposed of the petition by directing Medical Superintendent of RML Hospital to constitute a Medical Board for measuring the height of the Petitioner, within two weeks of the receipt of the copy of the order and observed that the parties shall abide by outcome of the Medical Board. It was directed that if the report of the Board was found favourable to the Petitioner, then there being a vacancy in the unreserved category, further process for appointment of the Petitioner would be initiated expeditiously.

6. In compliance of the judgement, a Medical Board was constituted and Petitioner was examined. Height was recorded as 167.2 cms and as the Petitioner qualified the requisite parameter, Respondents vide order dated 30.10.2018, called the Petitioner for the next phase of selection process, scheduled to be held on 14.06.2020. Petitioner was directed to appear in the PET involving the following events:

- “i. 100 m running – To be completed in 15 seconds for which a minimum of 12 marks would be awarded.*
- ii. Rope Climbing – 20 marks would be awarded if complete 8 meters is covered and a minimum of 8 marks even if fails to perform.*
- iii. Pole Climbing – 20 marks on complete height climbing which is of 8 meters, otherwise, 8 marks even if not performed,*
- iv. 60 m running with human dummy – To be completed in 40 seconds with a minimum of 12 marks.*
- v. Full ladder climbing – To be completed in 120 seconds for which 6 marks would be awarded.”*

7. Petitioner also underwent the Physical Fitness Test (Eye Sight) and Driving Test on 14.06.2019 and furnished the required documents. According to the Petitioner, while performing the 100 meter Running Test, he was not apprised of the proper Rules and there were certain irregularities, which resulted in a confusion, as a result of which the Petitioner took an extra 1.47 seconds, beyond the criteria of finishing within 15 seconds. Several representations were made in this regard by the Petitioner to the Respondents as also to the Chief Vigilance Officer. In the meantime, Dr. Mittal, who had wrongly assessed the height of the Petitioner was chargesheeted. After the representation by the Petitioner regarding the 100 meter run, the members of the Committee who took the PET and also included Dr. Mittal were given an administrative chargesheet.

8. Several representations of the Petitioner for another chance to undergo the PET finally resulted in an order dated 19.02.2020, whereby the Respondents decided to reconduct the PET and directed him to be present at the venue on 28.02.2020. Petitioner was again aggrieved by the manner in which the tests were conducted, as according to him, the sequence of various events namely, Running, Rope and Pole Climbing etc. was changed, due to which the Petitioner felt exhausted before completing the events. This led to the Petitioner again representing to the Respondents, alleging malpractices and arbitrariness.

9. Petitioner scored 50 marks out of 100 in the written examination, which were the minimum essential marks required and scored 68 marks in the PET, which too were above the minimum essential requirement, making it a total of 118 marks. However, he was below 148 marks, the

cut off marks of the last candidate selected, as per the merit list and was not selected for appointment. Being unsuccessful in clearing the selection process, the Petitioner made a representation on 21.03.2020 followed by representations dated 30.03.2020 and 02.04.2020. Petitioner alleged bias in selection, especially due to inclusion of Dr. Mittal in the Committee constituted for selection and amongst others the prime grievance ventilated by the Petitioner was against the '00' marks assigned to him in the Pole Climbing Test, as according to the Petitioner, he should have been given at least 8 marks, in accordance with the provisions of Circular No. 08 of 2017, issued by the Respondents on 06.03.2017. The representations were collectively rejected by the impugned order dated 19.05.2020.

10. Learned counsel for the Petitioner argued that the rejection of the candidature of the Petitioner is a result of malafide and vindictiveness of Dr. Sudhir Mittal, who had initially wrongly assessed and recorded the height of the Petitioner, resulting in the Petitioner being declared 'Unfit' in the Physical criteria. The negligence and callousness of the Committee came to light when the two Government Hospitals at Rajasthan and the Medical Board at RML Hospital, assessed the height of the Petitioner and he was found to be meeting the physical standards. On account of the fact that Dr. Mittal had wrongly assessed the height, Chargesheet was issued to him and this resulted in his harbouring an ill-will towards the Petitioner. Subsequently when the Committee was constituted to re-conduct the PET, Dr. Mittal was a part of the Committee and it is only natural that out of vengeance, he influenced the other members of the Committee, and persuaded them to disqualify the Petitioner. The

argument is that once the Respondents had chargesheeted Dr. Mittal, it was both illegal and unfair to include him as a member of the Committee constituted to re-conduct the PET.

11. It was next contended that the harassment of the Petitioner continued during the fresh PET also. Several irregularities were committed during the conduct of the tests, the first one being, modification in the sequence of conduct of events. The sequence has a relevance and is designed to ensure that the candidates retain the energy and strength upto the last test. The sequence alteration exhausted the petitioner in the middle of the process and he was thus unable to accomplish the required parameters, to the best of his capacity and stamina.

12. It is next contended that in the Pole Climbing Test, Petitioner was assigned '00' marks on the ground that he could not complete the task. This is contrary to the Circular dated 06.03.2017, as per which petitioner was entitled to be awarded minimum 08 marks, as he had climbed the pole upto a certain height. Award of zero marks resulted in the Petitioner scoring less than the cut off marks i.e. 148 marks and consequent non-selection to the post in question.

13. It was also urged by learned counsel for the Petitioner that because of repeated illegalities committed by the Respondents and the selection being delayed, the Petitioner has now become over-age and cannot apply afresh for the said post. Recruitment process must be fair, transparent and based on merit of a candidate, but once it is tainted with bias and malafides, as in the present case, the entire process stands vitiated.

Reliance is placed on the judgement of the Supreme Court in ***Krishan Yadav vs. State of Haryana 1994 (4) SCC 165*** in this context.

14. *Per contra* it is argued by learned counsel for the Respondents that there is no irregularity or illegality in the selection process, as alleged by the Petitioner. Insofar as the initial assessment of the height of the Petitioner was concerned, it is submitted that Petitioner was declared 'Unfit' by the Medical Team headed by Dr. Mittal, who was one of the members of the Selection Committee. However, this was at best an error of judgement and assessment and not out of bias, as at that stage petitioner was only a candidate who had applied for selection and was unknown to the doctor. Once the height of the Petitioner was certified as meeting the Required Height Standards, he was given an opportunity to appear for the PET on 14.06.2019 and was informed of the same, 10 days in advance, vide order dated 04.06.2019. PET marks were allocated, by a duly constituted Selection Committee, comprising of High-Level Officers and was based purely on the performance of the Petitioner and the laid down criteria. Nonetheless once the petitioner flagged certain issues in his representation, in order to be fair to the Petitioner, a second opportunity was given to appear in the PET on 28.02.2020. To obviate any hurdle in fair selection and dispel any impression of alleged bias, it was ensured that an outside agency is involved in the conduct of PET. Accordingly a senior officer from CISF was included in the Selection Committee. As a measure of abundant precaution and to ensure complete transparency, additionally, the events were videographed. A perusal of the video footage clearly reveals that there was no irregularity in the conduct of the test and fair opportunity was given to the Petitioner, in the

presence of the CISF Officer. The Petitioner was awarded marks as per his actual performance, on ground, which is visible in the video clipping and no bias can be alleged. It was submitted that the video footage can be shown to the Court, if so required, and the same would substantiate the stand of the Respondents.

15. It was next contended that the Petitioner had attempted the event of Pole Climbing but could not complete the required task of climbing beyond 2 metres. It was explained to the Court that the total height of the Pole was 8 metres, out of which, 2 metres were exempted, keeping in view the height of the candidate. A white line was marked on the Pole, which indicated the end of 2 meters as well as commencement of the further height, which the candidate had to climb and the marks were given on the basis of the height achieved after the mark. This criteria of evaluation was uniformly followed for all candidates and was known in advance. Since the Petitioner could not cross the 2 metre mark, he was awarded '00' marks. It is further argued that the Petitioner is misreading and misinterpreting the Circular dated 06.03.2017. It is nowhere mentioned in the Circular that a candidate cannot be awarded '00' marks and/or that a mere attempt to climb entitles a candidate to be awarded minimum 8 marks. If the interpretation sought to be made by the Petitioner is accepted, there would be no requirement of having a mark at the end of 2 meters and that being the height of the candidates, every candidate would be able to achieve the 2 meter height and entitled to 8 marks. The purpose of the PET was to test if the candidate could climb the Pole above the height of 2 meters, in keeping with the nature of the job for which the selection was made. Recruitment relates to a post of

Junior Assistant (Fire Service) and in the event of an incident of fire in a building, at a height, the most crucial part of the exercise to control the fire and evacuate persons, shall be climbing. Respondents cannot thus compromise with respect to the test relating to pole climbing.

16. It was next contended that even assuming for the sake of arguments that the Petitioner was entitled to 8 marks in the Pole Climbing even then this argument would not help the Petitioner. The argument of the learned counsel for the Respondents is that the last selected candidate had a rank of 43 with 148 marks. Petitioner scored a total of 118 marks with a rank of 224 and thus even if the 8 marks are added to the score of 118 marks, the total would be 126 and would be well below the marks of the last selected candidate. There are 91 candidates who are above the Petitioner and below the last selected candidate in the merit list and there are 41 candidates who have obtained '00' marks in Pole Climbing and any further opportunity to the Petitioner for reconduct of the PET would open a Pandora box.

17. It was also contended by counsel for the Respondents that the present selection relates to an advertisement of the year 2017 and the total number of vacancies advertised were 84. 83 vacancies have been filled and one vacancy has been kept reserved by virtue of an order of the Court but is a reserved vacancy in the category of 'OBC'. Petitioner cannot be adjusted against any future vacancy and the petition deserves to be dismissed.

18. Counsel for the Petitioner arguing in rejoinder contends that the first stage of selection in case of the Petitioner showed the callous, negligent and lackadaisical approach of the Respondents whereby they

had wrongly assessed the height of the Petitioner, below his actual height. It is well-known that the height of the person neither increases nor decreases after a certain age and but for the numerous representations of the Petitioner and the order of this Court, the Petitioner would have been ousted from the selection process at the very initial stage. On receiving a chargesheet due to the irregularity committed, Dr. Mittal obviously had bias against the Petitioner. Thus, when a fresh Committee was formed and it included the same Doctor, it was written on the wall that the Petitioner would be given low scores and irregularities would continue in the selection process. The PET held on 14.06.2019 was a mere formality and the result was known in advance to the Petitioner.

19. It was also argued that when the PET was conducted, the merit list and the cut off marks were known to the Respondents and due to malafide, the scoring was done in a manner that the Petitioner did not reach the cut off mark. Right from the start of the second PET, the events were so held that it created confusion in the mind of the Petitioner. As an illustration, it is pointed out that in a 100 meter run, the whistle ought to have been blown at the starting point in consonance with the Starters Guidelines issued by International Association of Athletics Federation, whereas the same was blown at the end point of the 100 meter track.

20. I have heard the learned counsels for the parties and examined the contentions.

21. Present writ petition relates to recruitment to the post of Junior Assistant (Fire Service) in the Airports Authority of India. The selection process was in various phases starting with an online computer based written examination carrying 100 marks, followed by the certificates /

documents verification. In the next phase the candidates were required to undergo Medical Fitness / Physical Measurement Test and on being qualified, the next stage included Driving Test and Physical Endurance Test. It is undisputed that at the start of the selection process, Petitioner was disqualified to undergo the next phase of selection as he did not meet the physical criteria on account of his height having been incorrectly measured. Petitioner resorted to the path of litigation and this Court directed a Medical Board to be constituted by RML Hospital to measure the height of the Petitioner and in case the report was found to be favourable to the Petitioner, to process the case of the Petitioner for selection expeditiously.

22. Admittedly, the Petitioner on being reassessed by the Medical Board qualified the height criteria and was called for the next process of selection on 14.06.2019, wherein Driving Test and PET were conducted. The PET was by duly constituted Committee, comprising of 7 members, including Dr. Mittal. Petitioner could not qualify the PET and through his representation raised various grievances including alleging irregularities in the 100 meter running event. The representations of the Petitioner resulted in the Respondents conducting the PET afresh on 28.02.2020. However, the Petitioner was again unsuccessful in scoring marks to qualify the threshold of 148 marks, scored by the last selected candidate in the merit list, prepared keeping in view the number of vacancies advertised.

23. While the main argument of the Petitioner hinges on the bias of Dr. Mittal, who is impleaded as Respondent No.6 in the present petition, the contentions raised can be broadly summarized as follows :-

(a). Bias of Dr. Mittal on account of the chargesheet issued to him for incorrectly measuring the height of the Petitioner at the initial stage of selection vitiated the selection process as he was included as member of both the Committees constituted to conduct the PET.

(b). In the PET conducted on 14.06.2019 there were irregularities committed in the conduct of the 100 meter race event and on the representations of the Petitioner, a fresh chance was accorded to undergo the PET and an administrative chargesheet was issued to the Committee Members, vindicating the stand of the Petitioner that there was irregularity in the process and the bias of Dr. Mittal.

(c). Petitioner was clearly entitled to a minimum of 8 marks in Pole Climbing as per the Circular dated 06.03.2017, but was awarded 00 marks, due to the bias of Dr. Mittal.

(d). The Selection Committee conducted the PET on 28.02.2020, by which time the merit list had been declared on 21.05.2018 and since the Members knew the marks of the other candidates as well as the Petitioner, they deliberately gave low marking in the PET so that the Petitioner did not come up to the cut-off marks in the merit list.

24. In so far as the argument of the Petitioner that the selection process of PET is vitiated by bias and should be conducted afresh, this Court cannot agree with the Petitioner for more than one reasons. First and foremost, the Committee which was constituted for conducting the PET on 28.02.2020, comprised of 5 members from different disciplines, such as GM (HR), GM (Tech), GM (Ops), Joint GM (FS), Joint GM (MS) and most significantly an outside expert i.e. Commandant, CISF was included in the Committee. Admittedly, there are no allegations of bias

leveled by the Petitioner against any of the other members of the Committee, leave and except Dr. Mittal. As brought out by the Respondents the three members were GMs who were senior to Dr. Mittal and one was an outside expert from CISF and the Petitioner has been unable to establish how Dr. Mittal influenced or could influence his senior officers and a CISF Commandant. In the absence of any allegations of bias against the other members and/or there not being impleaded as a party in the petition, the Court cannot subscribe to the argument that the entire Committee was biased against the Petitioner. I am fortified in my view on this aspect by a judgment of the Division Bench of this Court in *Narender Yadav vs. Union of India and Anr.* in **W.P.(C) 2574/2000** decided on 12.02.2013, where an identical issue had arisen before the Court. The Petitioner therein had applied for Direct Recruitment to the post of Assistant Commandant in BSF and after clearing the written examination had appeared for the PET, where his physical measurements were incorrectly recorded. On approaching the Court in a writ petition the Court had directed Review Medical examination of the Petitioner. As a result of the review, the measurements were found to be in accordance with the prescribed standard. However, after qualifying the PET, the Petitioner scored low marks in the interview. He approached the Court alleging bias of one of the Members of the Interview Board who happened to be the officer who had earlier disqualified him in the physical standards. The same argument as is sought to be raised by the Petitioner herein was raised before the Division Bench and the Court observed the following while dismissing the writ petition :-

“8. Another aspect which is relevant while considering the legality of the petitioner’s non-selection is the circumstance that Mr. Rana was not the only member of the interview board; it consisted of five other officials, most of who were higher in rank than him. Under these circumstances, even the allegation of bias is extremely tenuous and has not been established.”

25. The other reason that weighs with the Court to conclude that bias, if any, on the part of Dr. Mittal could not have resulted in the low scores of the petitioner, is that keeping the chequered history of the case in the background, the Respondents had, apart from including a CISF Officer in the Committee, had by way of abundant caution, to eliminate any allegation of bias and for the sake of transparency, videographed the Physical Endurance Test. Admittedly, each and every event i.e. 100 Meter Race, Ladder Climbing, Rope Climbing, Pole Climbing and Race with Human Dummy was duly videographed. The actual performance of the Petitioner was thus captured by the video and it is not the case of the Petitioner that there was any tampering with the recording. Once the tests in question involved physical performance on the ground and were videographed, it can hardly be argued by the Petitioner that there would be subjectivity in marking, assuming in favour of the Petitioner that any one Member of the Committee nurtured a feeling of bias against him. For the same reason, the outcome of the various events and their results could not have been manipulated against the Petitioner. In fact with the consent of the counsel for the Petitioner, the video recording was played during the course of hearing. Since the main argument and contest of the Petitioner was with respect to the event of Pole Climbing, the Court had

the occasion to witness the event from the start to the end. Court noticed that the event of pole climbing was witnessed by all Members of the Committee along with the timer and the Petitioner was briefed before the start of the event. It was evident that the Petitioner was not able to cross the white mark on the pole which was at a height of 2 meters from the ground level, despite his best efforts. In view of the above, I am of the opinion none of the Committee Members could have changed the scores of the Petitioner out of any alleged bias and since the Petitioner did not meet the requisite parameter, he was awarded '00' marks.

26. I may also note in this regard that the marks obtained by the Petitioner in the various PET events have been placed before the Court in a tabular form and the table is as follows:-

"ASSESSMENT SHEET FOR RE-CONDUCT OF PHYSICAL ENDURANCE TEST FOR THE POST OF JUNIOR ASSISTANT (FIRE SERVICE), Advt. No.01/2017/NR held on 28.02.2020 AT SAFDARJUNG AIRPORT, NEW DELHI

Total Marks: 100

Pass Marks: 60

Pass Marks: 60 (no relaxation)

S. No.	Roll No.	Name (S/S hri)	100 M Running (Max. Marks-20) (In Sec.)		Rope Climbing (Max. Marks-20) (Total timing 20 Sec.) (8 Meters)			Pole Climbing (Max. Marks-20) (Total timing 30 Sec.) (8 Meters)			60 mt. running with human dummy (50 Kg.) (Max Marks 20) (In Sec.)		Full Ladder Climbing (Max. Marks -20) (In Sec.)		TOTAL MARKS OBTAINED OUT OF 100 MARKS	Remarks (qualified/ not qualified)
			Time (In Second)	Marks	Time (In Second)	Height (In Meters)	Marks	Time (In Second)	Height (In Meters)	Marks	Time (In Second)	Marks	Time (In Second)	Marks		
1	1308010244	Abhishek Sharma	14.44	12	14.93	FULL	20	30	00	00	23.63	16	31.56	20	68	Qualified

Sd/- 28.02.2020 R P Singh GM (Tech) Member	Sd/- 28.02.2020 Manoj Kr Behera GM (Ops) Member	Sd/- 28.02.2020 P K Deshmukh Jt. GM (FS) Member	Sd/- 28.02.2020 Dr. Sudhir Mittal Jt. GM (MS) Member	Sd/- 28.02.2020 Sh. Bhaskar Kumar Commandant (CISF)
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Sd/- 28.02.2020
Sh. Harbir Singh, GM (HR)
Head of Selection Committee

27. Petitioner has thus scored 12 marks in the 100 meter run, 20 marks in rope climbing, 16 marks in running with the human dummy and 20 marks in full ladder climbing. It is evident that in two events the Petitioner has been awarded 20 out of 20 marks i.e. full marks and even in the other two events, he has scored high marks. If there was any bias, Committee would not have awarded such high scores to the Petitioner in all events except the pole climbing. Respondents have also placed on record photographs depicting the conduct of the pole climbing event and based on the photographs and the video recording this Court concludes that the Petitioner has been fairly assessed and has been awarded marks as per his performance and the score obtained in pole climbing is not the result of any bias, but actual performance, on the ground, by the Petitioner.

28. Learned counsel for the Petitioner has strenuously argued that as per the circular dated 06.03.2017 and the Advertisement, the Petitioner was entitled to be awarded minimum 8 marks in the pole climbing, on a mere attempt, irrespective of the height up to which he had climbed. Respondents have however, per contra, sought to explain and, in my view, rightly, that the total length of the height of the pole was 8 metres, out of which 2 metres was exempted keeping in view the height of the

candidates. For this reason, there was a marking in white on the pole at the end of 2 metres and it was from this point upwards that the candidate had to climb in order to be awarded marks in the pole climbing. The Petitioner could not complete the task of even going up to 2 metres. There is nothing in the Circular which supports the stand of the Petitioner that even if the candidate is unable to cross the initial height of 2 metres, which is exempted, he/she would be entitled to minimum 8 marks. If the interpretation placed by the Petitioner is accepted by the Court, the purpose of testing a candidate for pole climbing would be lost as 2 metres from ground level would be the height of the candidate. The recruitment in question relates to the Fire Service and climbing heights is a *sine qua non* of the job profile. Since the Petitioner did not achieve the required benchmark, in my view, no arbitrariness or illegality can be found in the action of the Committee in awarding him '00' marks for the pole climbing event.

29. I also find merit in the contention of the Respondents that the Committee did not have prior knowledge of the cut-off marks obtained by the last candidate in the merit list and therefore, had no reason or occasion to give no scores to the Petitioner in the PET, as alleged by the Petitioner. The Petitioner has been unable to rebut this stand of the Respondents and failed to establish how the Committee was privy to the marks obtained by the last candidate in the merit list. This argument would also not sustain for the reason that this Court has already given a finding in the earlier part of the judgment that there was no bias on the part of the Committee Members. This argument of the Respondents is strengthened by the fact that there are around 41 candidates who were

awarded '00' marks in the pole climbing apart from the Petitioner, as brought out by the Respondents during the hearing.

30. There is also substance in the argument of the Respondents that even assuming that the Petitioner is awarded 8 marks in the pole climbing he would not come above the benchmark of 148 marks, scored by the last selected candidate in the merit list and also that between the Petitioner and the last selected candidate there are 98 candidates who could not be selected having scored marks below the cut-off marks.

31. Petitioner has relied on the judgements in the case of ***K. Manjusree v. State of Andhra Pradesh and Another, (2008) 3 SCC 512***, to argue that once the selection process starts, the rules cannot be changed as this would be changing the rules of the game after it has started. This Court is unable to fathom how the said judgement applies to the facts of the present case. At best, the contention of the Petitioner was that the sequence in which the events were held was different from the earlier selection process. This, in my view, does not amount to changing the rules of the game. This argument also has no merit for the reason that the Petitioner had without any demur or protest participated in the events and most significantly as mentioned above, he has scored high marks in most of the events. The Petitioner had also relied on the judgement in the case of ***Dr. (Mrs.) Kirti Deshmankar v. Union of India and Others, (1991) 1 SCC 104*** to argue that bias in a selection process vitiates the process. In the said case, the Supreme Court had noted that the mother-in-law of the selected candidate was present in the meeting of the Council and therefore there was no necessity of establishing any bias as her presence was enough to invalidate the selection process. Without a doubt the facts

of the said case are completely distinguishable from the present case. At the cost of repetition, I must state that the Petitioner has not leveled allegations of bias against Members of the Committee except one for Dr. Mittal and as observed by me earlier the process of selection with which this Court is concerned in the present petition is the physical event, based on actual performance and not on subjective satisfaction of any Committee Member and the performance was clearly evident from the video recording.

32. For all the aforesaid reasons, I find no merit in the writ petition. The same is accordingly dismissed along with pending application.

JYOTI SINGH, J

JANUARY 12th, 2021

yo/rd/yg

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