

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

**LPA No. 1057 of 2021
Date of decision: 02.02.2022**

Rakesh Parkash

... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Shailendra Sharma, Advocate, for the appellant.

**Mr. Avinit Avasthi, Assistant Advocate General, Punjab.
(The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual Court).**

ARUN PALLI, J.

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 06.10.2020, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant has since been dismissed.

In response to an advertisement No.8, dated 10.12.2016, issued by the Punjab Public Service Commission, (for short, 'the Commission'), the appellant competed for selection against the five posts of Punjab Civil Services (Executive Branch), to be filled through Register A-II. The appellant failed to make the cut, as he obtained 59.87 marks and was placed at serial No.10 in the select list published by the Commission on 03.09.2018. Whereafter, vide a writ petition, referred to above, he questioned the validity and fairness of the selection process on multiple grounds. And, as can be discerned from the impugned judgment, the precise grievance of the appellant has been that he was wrongly deprived of one extra mark, for his

graded as 'Good', whereas, it ought to have been entered as 'Very Good'. Secondly, post issuance of the recruitment notice dated 8.12.2016, and initiation of selection process, the criteria for selection was altered/changed by the Commission, and thus, the selection, in its entirety, was vitiated. Further, albeit 15 marks were assigned for the interview, but the method/criteria as to how these marks were to be allocated/awarded, was not disclosed.

We have heard learned counsel for the appellant, who has merely reiterated the arguments that were advanced before the learned Single Judge, and perused the record.

Concededly, the selection, appointment and service conditions of the Punjab Civil Services (Executive Branch), are governed/regulated by the Punjab Civil Services (Executive Branch) Rules, 1976, (for short, '1976 Rules'). Though, the learned Single Judge has extracted the relevant rules and clauses of the recruitment notice in the impugned judgment, but for facility of reference and examining the limited issue that arises for consideration, we consider it expedient to refer to those. Rule 10 (amended in 2011) of the 1976 Rules reads as thus:-

“10. Preparation of Register A-II of accepted candidates.-(1) The Commission shall invite the applications from amongst the members of Group ‘A’ and Group ‘B’ services, serving in connection with the affairs of the State of Punjab holding ministerial appointments not below the level of Senior Assistants, which shall be submitted to the Commission through proper channel along with their service record.

(2) The applications received alongwith the service records of the candidates shall be processed by the

Commission for adjudging the suitability of such candidates, and after conducting a screening test, the Commission shall prepare a list of eligible persons, three times of the number of vacancies.

(3) For final selection of the candidates from the list prepared under sub-rule (2), the Commission shall determine the suitability of candidates on the basis of Annual Confidential Reports, Seniority, Experience and Performance in the Interview by associating two representatives of the State Government; one serving as Secretary, Personnel and General Administration and the other senior IAS officer nominated by the Chief Secretary to Government of Punjab:

Provided that the members of the Commission and representatives of the State Government involved in the selection, shall certify in respect of the each candidates that they have no relation with him.

(4) The name of a person shall not be included in the final list unless he-

(a) is a confirmed hand and has completed eight years continuous service under the Government.

(b) was under the age of fifty four years on the first day of November immediately preceeding the date of submission of names by the concerned authorities; and

(c) is a Graduate of a recognized university.

(5) A list of selected candidates shall be forwarded to the Government by the Commission for entering their names in Register A-II as accepted candidates and these names shall be entered in this register in the order in which they are recommended by the Commission”.

A bare analysis of sub-rule 2 of Rule 10 of the 1976 Rules

(ibid), shows that a screening test of all the candidates is conducted by the

Commission. Whereafter, a list of eligible candidates, three times the

number of vacancies, is prepared. Further, sub-rule 3 reveals that final selection is made on the basis of their ACRs, seniority, experience and performance in the interview. We may now refer to Clause 11.2 of the recruitment notice, which sets out the criteria for making selection:

11.2 Criteria for making selection:

The criteria to be adopted by the Commission is as follows:

Sr. No.	Details	Weight-age (Marks)
1	Screening Test	50
2	Length of Service	15
3	Assessment of Service Records (ACRs/APARs)	20
4	Interview	15
	Total marks	100

Ex facie, and as recorded by the learned Single Judge, out of the total 100 marks, in sync with sub-rules 2 and 3, 50 marks were allocated to screening test, 15 for length of service, 20 for assessment of ACRs and 15 for interview. Thus, it was concluded that selection carried out by the Commission was as per the 1976 Rules.

As for the grievance that appellant ought to have been awarded 1 (one) extra mark regarding ACR for the year 2010-11: the argument advanced before the learned Single Judge was that of the total numeric grading of 100 marks, the appellant was assigned the numeric grading and rating of 61 by the Reporting Officer. Therefore, in terms of the table (at page 77 of the paper book), the numeric grading being in the range of 61-80%, the appellant ought to have been graded as ‘Very Good’. And, as a necessary consequence, in terms of the method/criteria published by the Commission, vide notice dated 9.3.2018 (*ibid*), the appellant was entitled to one additional mark, i.e. rather than two, he was entitled to three marks.

However, in reference to the specific stand set out by the respondents in their reply, the learned Single Judge concluded that even though the appellant was assigned the numeric grading of 61 by the Reporting Officer, but yet his overall grading was recorded as 'Good', which was endorsed by the Accepting Authority, as well. Further, for the Accepting Authority happened to be the final authority to assign the final grade, it could be better than the grade assigned by the Reporting Officer or otherwise. The Accepting Authority, in the matter at hand, also graded the appellant as 'Good', which was final. Not just that, the ACR in question pertained to the year 2010-11, which was still intact and operative, and significantly was never questioned by the appellant in all these years.

As regards the argument that post initiation of the selection process, the Commission, vide public notice dated 9.3.2018, referred to below, altered the selection criteria: we may hasten to point out that all that was sought to be clarified vide said notice was the mechanism/method to allocate or award marks for the length of service as also the ACRs of the candidates:

Criteria for length of Service and ACR's Marks
Length of Service Marks = 15

Minimum age for entry into Govt. Service	18 Year
Minimum service for eligibility	08 Year
Therefore, Minimum age for eligibility	26 Year
Maximum age for eligibility	54 Year
Maximum Service which can be considered	28 Year
Marks for each year of service =15/28	0.54 marks for each complete year

Marks for ACRs = 20 marks for last 5 year ACRs

Outstanding	04 marks
Very Good	03 marks
Good	02 marks
Average	01 mark

Apparently, if the recruitment notice and the mechanism, set out in the public notice (*ibid*), are juxtaposed, it irresistibly shows that there, indeed, was no deviation in the selection criteria. As indicated earlier, in terms of the criteria envisaged in the recruitment notice, 15 marks were allocated for length of service, and 20 marks were assigned for assessment of ACRs. Likewise, the public notice, extracted above, reveals that 15 marks, that were assigned for length of service and 20 marks allocated for the ACRs, remained unaltered or unchanged. Except, as observed by the learned Single Judge, that vide public notice, the criteria as regards awarding marks for length of service and assessment of ACRs was simply spelt out to determine the *inter se* merit of the candidates: ***“In such circumstances, the question is whether there is any change in the criteria or not. On the consideration of the matter, this Court has come to the conclusion that the public notice uploaded on 09.03.2018, does not prove that the criteria has been changed after the issuance of recruitment notice. In fact, through the public notice, the commission has only explained the criteria adopted for calculating the marks/weightage. Such public notice does not amount to change in the criteria. In the Service Rules, marks/weightage to be given to each category, has not been provided. Hence, the Public Service Commission was at liberty to determine the suitability of the candidates in accordance with the Rules. The Public Service Commission has, no doubt, increased the allocation of marks for screening test and consequently, reduced the weightage/marks for the length of service and Annual Confidential Reports when compared with the recruitment notice issued on 21.04.2014. However, the writ petitioner has not filed the present writ petition with regard to the selection of the candidates pursuant to the recruitment notice dated***

21.04.2014. It is the pleaded case of the writ petitioner that he submitted an application on 08.12.2016. Therefore, the recruitment notice issued in the year 2014, is of no relevance. Still further, the criteria notified in the recruitment notice is not established to have been violated. The public notice has only spelled out the manner of calculation of the marks within each category. Such public notice does not amount to change in criteria.....”

As for the plea that although 15 marks were assigned for the interview, but the method/criteria as to how those marks were to be allocated/assigned was not disclosed: the learned Single Judge rejected the argument as neither any rule nor any instructions/circular, mandating the Commission to make any such disclosure, was referred to. Further, the candidates were evaluated on the basis of their performance by the Selection Committee, that was constituted in terms of sub-rule 3 (*ibid*).

Upon being pointedly asked, learned counsel for the appellant failed to show, if the conclusions arrived at by the learned Single Judge either suffered from any illegality or were contrary to the record.

In the wake of the position, as sketched out above, we are dissuaded to interfere with the impugned order and judgment

The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

February 02, 2022

AK Sharma

Whether speaking / reasoned: **YES**

Whether Reportable: **YES/NO**