

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

LPA No. 1078 of 2022 (O & M)

Date of Decision: 02.12.2022

Lovepreet Singh

.....Appellant(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE GURBIR SINGH**

Present: Dr. Pankaj Nanhera, Advocate,
and Mr. Vikram Sharma, Advocate,
for the appellant.

G.S.SANDHAWALIA, J. (Oral)

CM-2621-LPA-2022

Application for condonation of delay of 34 days in re-filing the appeal is allowed in view of averments made in the application supported by affidavit.

Delay of 34 days in refiling the appeal is condoned.

C.M. stands disposed of.

CM-2622-LPA-2022

Allowed as prayed for.

LPA No. 1078 of 2022 (O & M)

Consideration in the present letters patent appeal is to the order of the learned Single Judge dated 27.07.2022 passed in CWP-12880-2014, Lovepreet Singh and another vs. State of Haryana and others. The writ petition filed by the present appellant and proforma respondent No.103 in the writ petition was dismissed whereby challenge had been raised to the

Engineer (Civil). The same had been advertised on 06.12.2011 (Annexure P-1) for filling of 109 posts of different categories. The primary challenge as such in the argument raised by the counsel was that the 20 marks which were assigned for matric and 10+2 was a criteria which was never notified as such and, therefore, on account of that he has been left out. It was, thus, submitted that it was tailor-made as such and there is arbitrariness on account of introducing the said criteria and challenge was raised to the selection list.

The learned Single Judge noticed that after unsuccessfully competing in the selection process, the challenge was being raised to the meaning assigned to the essential academic qualifications. The argument that only the three years diploma should have been the part of the assessment of the candidate to award marks for the essential qualifications, which was the argument raised at the time of notice of motion stage also, was rejected. The ground given was that a transparent and very objective approach had been adopted by giving due weightage to the performance of the candidates on the basis of their having scored higher marks in the matric and 10+2, as the case may be along with three years diploma. It was further observed that it was not a case of any hostile discrimination and many of the candidates who were likewise the petitioner had been subjected to the same criteria who would not have earned additional marks as claimed by the petitioner by not considering his performance in matric. On the basis of the assessment in subsequent years and also what they obtained in matric and 10+2 was the foundation of their academic qualifications and to say that the Commission could not give any weightage of marks of matric and 10+2 would go against the spirit of conducting the Board Examinations. Resultantly, finding no ground, the writ petition was dismissed.

A perusal of the paper book would go on to show that 109 posts of Junior Engineers were open to be filled up as per Advertisement No.2 dated 06.12.2011 (Annexure P-1) as advertised by the Haryana Staff Selection Commission. Instructions as such provided that short listing may be done by holding a written examination or on the basis of a rationale criterion to be adopted by the Commission. The essential qualifications were also three years' diploma in Civil Engineering from recognized institution + Hindi/Sanskrit upto matric standard. The same reads thus:-

“E.Q.i) Passed three years diploma in Civil Engineering from recognized Technical Institution.

(ii) Hindi/Sanskrit upto Matric Standard.

Pay Scale Rs.9300-34800 + Rs.3600 Grade Pay

Age 17-40 years.

SPECIAL INSTRUCTIONS:

The prescribed essential qualification does not entitle a candidate to be called for interview. The Commission may shortlist the candidates for interview by holding a written examination or on the basis of a rationale criterion to be adopted by the Commission. The decision of the Commission in all matters relating to acceptance or rejection of an application, eligibility/suitability of the candidates, mode of, and criteria for selection etc. will be final and binding on the candidates. No inquiry or correspondence will be entertained in this regard.”

Apparently, the Commission immediately thereafter on 07.01.2012 (Annexure P-10) in meeting which was presided over by the Chairman for the said posts advertised, fixed 75 marks for the criteria which was bifurcated into 20 marks for matric/10+2 and 30 marks were given for the diploma in Civil Engineering whereas for the interview, 25 marks was

given. The same reads thus:-

***“CRITERIA FOR MAKING SELECTION ON THE
POST OF JUNIOR ENGINEER (CIVIL),
ENGINEER-IN-CHIEF SECETARY TO GOVT.
HARYANA PWD (B&R), HARYANA AGAINST
ADVT. NO. 2/2011, CATEGORY NO.68
LAST DATE 07.01.2012***

“Total Marks : 75

1. Basic Qualifications : 20-Marks

Matric/+2

*0.20 of the percentage of marks in whichever
higher marks have been obtained.*

2. Essential Qualification: 30-Marks

*Three Years Diploma in Civil Engineering from
Recognized Technical institute.*

3. Viva Voce: 25-Marks

*To access the knowledge of subject,
communication skill, general knowledge, general
awareness and intelligence”*

Thereafter, vide advertisement dated 25.06.2013 (Annexure P-7), notice was issued that short listing of candidates was being done on account of the large number of applications received and in the respective categories for interview on the basis of essential academic advertised qualification i.e. passing of three years' diploma in Civil Engineering from recognized technical institutions. Only the short listed candidates who had more than the required percentage or the higher percentage were to be called for interview. Notice dated 25.06.2013 (Annexure P-7) reads thus:-

***“HARYANA STAFF SELECTION COMMISSION
BAYS NO. 67-70, SEC-2, PANCHKULA-134151
(Website: www.hssc.gov.in)***

***NOTICE OF SHORTLISTING TO THE CANDIDATES FOR THE POSTS OF
JUNIOR ENGINEER (CIVIL) FOR ENGINEER-IN-CHIEF PWD (B&R)
HARYANA AGAINST ADVERTISEMENT NO. 2/2011, CAT NO.68***

Reference Commission's Advt. No. 2/2011 dated 06.12.2011 read with corrigendum dated 10.02.2012 which published in the various newspapers for recruitment to the 109 posts of Junior Engineer (Civil) for Engineer-In-Chief PWD (B&R) Haryana against Advt. No. 2/2011, Category No. 68.

Keeping in view the large number of applications and as per condition laid down in advertisement, the Commission has decided to shortlist the candidates in the respective category for interview on the basis of essential academic advertised qualification i.e. Passed three years diploma in Civil Engineering from recognised Technical Institution. The minimum cut off percentage for each Category is given below:-

<i>Sr. No.</i>	<i>Category</i>	<i>Cut off Percentage</i>
1.	GEN	65
2.	SC	58
3.	BCA	58
4.	BCB	58
5.	ESM-Gen	All Eligible
6.	ESM-SC/DESM-SC/DFE-SC	All Eligible
7.	ESM-BCA/DESM-BCA/DFE-BCA	All Eligible
8.	ESM-BCB/DESM-BCB/DFE-BCB	All Eligible
9.	OSP-Gen	All Eligible
10.	OSP-SC	All Eligible
11.	OSP-BCA	All Eligible
12.	PHC-(Blind)	All Eligible
13.	PHC-(Deaf & Dumb)	All Eligible
14.	PHC-(Ortho)	58
15.	DESM-Gen/DFE-Gen	(As per above cut off prescribed in their respective category i.e. Gen as the case may be)

All the Short listed candidates with the above mentioned percentage or higher percentage will be interviewed. The eligible candidates are advised to read the above mentioned notice carefully and attend the interview on the dates as per interview schedule to be published separately and as per dates indicated in the call letter, which will be issued tentatively in the month of July/August, 2013. However, such candidates who do not possess the minimum cut off percentage for short listing under their respective categories are advised not to contact the Commission Office in this regard:

USE OF MOBILE PHONE, AND OTHER ELECTRONIC DEVICE DURING INTERVIEW IS STRICTLY PROHIBITED.

Place: Panchkula

*Secretary
Haryana Staff Selection Commission
Panchkula"*

Dated: 25th June, 2013

The present appellant made the cut being a BCA candidate and has more than 58% marks but was apparently having low marks in his matric as compared to others. He only obtained 47.27 marks having secured 35.27 in the academic qualifications and 12 in the interview as against 48.91 marks of the lowest selected candidate. In the main list of his category, petitioner

percentage for interview and was never called for the same.

It is, thus, apparent that the uniform criteria as such had been applied by the Commission which it had fixed well in advance before the date of interview. Rather, the cut off percentage as such was also fixed on 25.06.2015 after the criteria had already been fixed on 07.01.2012 and the result was declared on 19.06.2014. In the writ petition, no such averments were made that the criteria was adopted for the purposes of selecting a certain set of persons. Merely because the petitioner did not make the cut as such, he cannot now turn around and say that the awarding of marks of matric/10+2 is arbitrary and should have been put in public domain at an earlier point of time.

We are of the considered opinion that in the absence of any *mala fides* pleaded against the selection process as such and on account of the criteria not having put in public domain would not be a case as such to interfere in the selection process of 109 appointees who were all similarly placed and were on the same pedestal while seeking consideration for appointment.

In such circumstances, we do not find that there is any arbitrariness on behalf of the Commission as such which would warrant interference in the order of the learned Single Judge, who has also come to the same conclusion.

Accordingly, the present appeal is dismissed in *limine*.

(G.S. SANDHAWALIA)
JUDGE

(GURBIR SINGH)
JUDGE

02.12.2022

shivani

Whether reasoned/speaking

Whether reportable

Yes

No