

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

119	CWP- 1971-2024 Date of Decision: 19.03.2024
Balwinder Singh	...Petitioner
Versus	
State of Punjab and others	...Respondents
With	
	CWP-6369-2023
Abhinash Singla	...Petitioner
Versus	
State of Punjab and others	...Respondents
With	
	CWP-7216-2023
Baljinder Singh	...Petitioner
Versus	
State of Punjab and others	...Respondents
With	
	CWP-6676-2023 (O&M)
Jaspal Singh	...Petitioner
Versus	
State of Punjab and others	...Respondents

CWP- 1971-2024 & connected cases

-2-

And

CWP-25833-2022

Jagdish Bassi

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Ashok Bhardwaj, Advocate for the petitioner(s)
(in CWP-6369-2023 and CWP-7216-2023)
Mr. Sarthak Gupta, Advocate for the petitioner
(in CWP-1971-2024)
Mr. Aminder Singh, Advocate for the petitioner
(in CWP-6676-2023)
Mr. Rakesh Sobti, Advocate for the petitioner
(in CWP-25833-2022)
Mr. Aman Dhir, Deputy Advocate General, Punjab

JAGMOHAN BANSAL, J. (Oral)

1. By this common order, the captioned petitions are hereby disposed of. The facts for the sake of brevity and convenience are borrowed from *CWP No.1971 of 2024*.

2. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of order dated 16.03.2023 (Annexure P-15) and 26.05.2023 (Annexure P-18) whereby his candidature for the post of Computer/Digital Forensic Officer has been rejected.

3. The respondent, inviting applications for different posts including post of Computer/Digital Forensics Officer (for short 'CDFO'), in Bureau of

Investigation, issued an advertisement No. 5 of 2021 dated 17.08.2021 (Annexure P-1). As per advertisement, there were two stages of selection process. The first stage comprised of Computer Based Test (for short 'CBT') and on the basis of marks obtained in the CBT, a list of shortlisted candidates was to be prepared. The second stage comprised of scrutiny of documents.

The petitioner pursuant to aforesaid advertisement vide application dated 07.09.2021 (Annexure P-2) applied for the post of CDFO. He was issued admit card. He appeared in the written test held on 22.09.2021. The respondent on the basis of marks obtained by different participants issued a list of shortlisted candidates (Annexure P-10) wherein his name figured at Sr. No. 1. The respondent issued admit card for Stage-II i.e. scrutiny of documents. The petitioner on 06.04.2022 appeared before Recruitment Board and submitted his original documents which were uploaded at the time of application. The respondent on 02.11.2022 after scrutinizing documents of candidates, uploaded on its website, a provisional list of selected candidates in general and economically weaker sections (EWS) category.

4. Few candidates preferred Civil Writ Petitions before this Court assailing selection list of different advertised posts. This Court vide order dated 05.12.2022 (Annexure P-14) disposed of a bunch of petitions. The relevant extracts of the order dated 05.12.2022 read as:

“Pursuant to order dated 24.11.2022, Ms. Gurpreet Deo, Additional Director General of Police (Community Affairs), Punjab, who has headed the process of entire recruitment, is present in Court today. Mr. Gaurav Garg Dhuriwala, Senior DAG, Punjab, on instructions, would submit that there is no mistake in compiling the selection lists. In fact the selections

have been made after taking into consideration the opinion of the Expert Committee that had been formulated to look into the experience certificates that had been furnished by the candidates. It is submitted that some of the candidates have furnished the experience certificates after having worked on computer in a karyana shop which would not be an adequate certificate for working in the Intelligence Wing as compared to the experience gainers with Infosys like companies. It is also submitted that apart from the fact that certain candidates have filed various writ petitions, approximately 150 representations have been preferred by the candidates seeking a re-look into the selection list, which representations are being considered by a Sub Committee which has been constituted for this purpose. The Sub Committee is being headed by Mr. Rajesh Jaswal, IGP, who is also a member of the recruitment board and, therefore, the grievance of the petitioners would also be looked into and a speaking order will be passed thereon which would be communicated to the petitioners herein.

I have heard learned counsel for the parties and in view of the fact that the entire matter is being re-looked into on the basis of representations that have already been preferred by the candidates and the Sub Committee constituted is to take up grievance of each applicant, let the writ petitions filed by the petitioners herein also be placed before the Sub Committee which would go into the issue and the grievance of the petitioners would also be considered and redressed by passing a speaking order, which order would be communicated to the candidates including the petitioners herein.

Consequently, these writ petitions are disposed of with the aforesaid directions.”

5. The respondent, in compliance of order dated 05.12.2022 of this Court, passed order dated 16.03.2023 (Annexure P-15). The respondent rejected candidature of all the candidates, thus, no one came to be selected. As

per respondent, none of the candidates is possessing requisite experience though they are having minimum education qualification.

6. This Court vide order dated 01.05.2023 (Annexure P-17) in *CWP No.25807 of 2022* and other connected matters, directed the respondents to pass afresh order after considering representations submitted by aggrieved candidates. The respondents were further directed to grant an opportunity of personal hearing to the aggrieved candidates. The relevant extracts of the order dated 01.05.2023 read as:

“Mr. Dhir, on instructions from Mr. Sarabjit, AIG, Litigation, submits that in order to address the grievance raised by the petitioners in the bunch of these writ petitions, the respondent-department has taken a conscious decision to grant an opportunity of personal hearing to each of the petitioners and thereafter take objective decision strictly in accordance with the public notice dated 17.08.2021 and as per law. The said proposal is acceptable to the counsels representing the petitioners.

In view of the above, all the petitioners are granted liberty to represent before Chairperson Central Recruitment Board on or before 06.05.2023. On getting such representations, the schedule w.r.t. the hearing would be published by the Recruitment Board on their website by 08.05.2023 specifying the date and time slot on which the candidate is required to appear before the Board. Such exercise would be completed by 12.05.2023. Thereafter necessary orders adjudicating upon the grievance raised by the petitioners would be passed on or before 20.05.2023. The orders will also be published on website and will not be served personally to the candidates. Counsel representing the petitioners have consented to this arrangement. The orders passed be produced on the next date of hearing i.e. 24.05.2023.”

7. Pursuant to order dated 01.05.2023 passed by this Court, the petitioner and others submitted representation along with experience certificates. The respondent associated Domain Experts while conducting personal hearing of the aggrieved candidates. The Domain Experts suggested to widen meaning of expression ‘relevant experience in the IT field’. The experience as Professor/Assistant Professor in Colleges as well as proprietor of a concern was included in the zone of consideration. The petitioners appeared before the respondents for personal hearing. The respondent vide impugned order dated 26.05.2023 (Annexure P-18), on the basis of opinion of Domain Experts, rejected candidature of all the applicants including petitioners. The Domain Experts formed an opinion that ‘relevant work experience’ refers to work experience in the field of ‘Computer/Digital Forensics’. The respondent, in view of opinion of domain experts, considered experience of teaching as relevant for the post of Information Technology Officer (for short ‘ITO’) and Information Technology Assistant (for short ‘ITA’), however, rejected for the post of CDFO. The findings of Domain Expert with respect to CDFO read as:

“Detailed comments of domain experts in case of representation filed by candidates where personal hearing granted by the Board in compliance of directions of Hon’ble Punjab & Haryana High Court

Computer Digital Forensic Officer (CDFO)

<i>Comments of Domain Expert</i>
<i>1. The candidate appeared for personal hearing before the Board on 08/05/2023 regarding his non selection on account of irrelevant experience.</i>
<i>2. The candidate applied for the post of Computer Digital Forensics Officer.</i>
<i>3. Earlier the candidate was rejected as per</i>

- experience as lecturer in the Department of Computer Science and Engineering at Bhai Gurdas Institute of Engineering and Technology from 01/08/2007 to 03/09/2021.*

4. As per the advertisement, the candidate is required to have a minimum of 12 years of "relevant work experience". Since the post for which the candidate has applied is "Computer/Digital Forensics Officer", the "relevant work experience" here refers to work experience in the field of "Computer/Digital Forensics".

5. Digital forensics is a branch of forensic science that focuses on identifying, acquiring, processing, analyzing, and reporting on data stored electronically. The main goal of digital forensics is to extract data from the electronic evidence (mobile/computer etc), process it into actionable intelligence and present the findings for prosecution.

6. The candidate's experience as Lecturer in the Department of Computer Science and Engineering is not relevant to the field of Computer/Digital forensics, where the principal job of the incumbent would be to extract data from mobile/computer devices and analyze the same which is a niche expert field requiring skills and expertise not acquired or practiced by the candidate in his experience as lecturer in a college.

*7. Accordingly, the experience of the candidate **remains rejected.***

[Emphasis Supplied]

8. Counsel for the petitioners submit that respondent had advertised different posts which included post of ITO, ITA, Assistant Forensic Officer and CDFO. The minimum qualification and experience prescribed for ITO, ITA, and CDFO is same. The qualification and experience required for the post of Forensic Officer/Assistant Forensic Officer is entirely different. In case of Forensic Officer/Assistant Forensic Officer, education qualification and experience are directly related to the post advertised whereas in case of

CDFO, ITO and ITA, prescribed education qualification is general in nature i.e. bachelor's degree in Computer Science. In case of Forensic Officer/Assistant Forensic Officer, the nature of experience is also directly related with the post whereas in case of CDFO, ITO and ITA, the required experience is not directly related to post advertised. ITO and ITA are feeder cadres for CDFO. An Officer after completing minimum prescribed service as ITO/ITA is eligible for the post of CDFO. The petitioners produced experience certificates which were accepted for the post of ITO and ITA but rejected for the post of CDFO. Provisional selection list was issued after scrutiny of documents i.e. Stage II. There was no reason to reject experience certificate. The respondent in 2022 has issued standing order wherein duties and responsibilities as well as desirable skills of different posts have been prescribed. The petitioners during the course of their degree have studied all the subjects which are necessary to get desirable skills. They at present are teaching all the topics which are notified under column 'desirable skills'. The respondent has rejected all the candidates in violation of doctrine of legitimate expectation.

9. Mr. Aminder Singh, learned counsel for the petitioner (in CWP-6676-2023) submits that petitioner is working as Junior Engineer with BSNL for last 16 years, thus, he has relevant experience.

10. *Per contra*, Mr. Aman Dhir, Deputy Advocate General, Punjab submits that in the advertisement, the expression 'relevant experience' was used though the said expression was not defined or clarified, however, the selection committee while scrutinizing documents scrutinized experience of candidates. The State is making appointment in Investigation Bureau, thus,

best of candidates are required to be selected. The basic job of the bureau is to investigate the heinous crimes and with the advancement of information technology, it is inevitable to appoint people having practical experience than possessing educational qualification without practical experience. The selection committee with the help of domain experts has re-examined case of all the candidates and by way of notes enclosed with the speaking order, the question of relevant experience has been made clear. This is applicable to all the candidates, thus, there is no discrimination. There is no allegation of *mala fide* or favoritism, thus, petitioner cannot claim that there was violation of Articles 14 and 16 of Constitution of India. The contention of the petitioner that there is violation of doctrine of legitimate expectation is not sustainable because State has offered equal opportunity to all the candidates who cleared written test. The appointment of candidates involved public interest, thus, State at a later stage could identify scope of 'relevant experience'. The State has widened meaning of said expression. The State by speaking orders with clarificatory notes has cleared the mystery which shrouded the entire selection process. The clarificatory notes are applicable to all the candidates, thus, there is no violation of principle of legitimate expectation. There is no change in the terms and conditions of the advertisement. The small deviation, which has taken place post advertisement, is applicable to all the candidates, thus, no one can claim discrimination or violation of Article 14 of the Constitution of India or doctrine of legitimate expectation.

11. The Selection Committee appointed Domain Experts who disqualified all the candidates for the post of CDFO though they had cleared written test because an opinion was formed that petitioners are not possessing

‘relevant experience’. The petitioners are possessing requisite educational qualification but their experience is linked with their educational qualification but it is not linked with posts advertised. The petitioners are working as Teacher or Junior Engineer but they are not dealing with retrieving data from electronic gadgets. No candidate has been selected, thus, none can claim discrimination. The Stage II of selection process was not meant merely for scrutiny of documents and Recruitment Board was empowered to check experience of candidates. The Recruitment Board on scrutiny of Experience Certificates of all the candidates formed an opinion that their experience is relevant for the post of ITO/ITA, however, it is not relevant for the post of CDFO. The post of ITO is indubitably feeding cadre of CDFO, however, for the direct recruitment of CDFO, experience relevant for ITO/ITA cannot be considered as relevant experience. The respondent for the first time had advertised post in question, thus, there could be minor lapse. If the petitioners are selected, they would not be able to meet the requirement of job profile. The scope of judicial intervention is very limited in selection matters.

In support of his contention, he relied upon judgments of Apex Court in *Tajvir Singh Sodhi & Others v. The State of Jammu and Kashmir & Others*, 2023 AIR (Supreme Court) 2014, *Ganapath Singh Gangaram Singh Rajput v. Gulbarga University Rep. by its Registrar and Others*, 2014 (3) SCC 767 and *Dinesh Kumar Kashyap and others v. South East Central Railway and others*, 2019 (12) SCC 798. The Apex Court has held that it is not within domain of the Courts, exercising power of judicial review, to enter into the merits of a selection process, a task which is the prerogative of and is within the expert domain of a Selection Committee, subject of course to a caveat that

if there are proven allegations of malfeasance or violation of statutory rules, only in such cases of inherent arbitrariness, the Courts can intervene. It is not appropriate for the Courts to substitute their judgment for that of a selection committee because process of selection involves a high degree of expertise and discretion.

12. I have heard the arguments of learned counsels for the parties and perused the record with their able assistance.

13. The conceded position emerging from the record is that the respondent advertised various posts for its investigation wing i.e. Bureau of Investigation. The selection process comprised of two stages i.e. (i) written test and (ii) documents scrutiny. In the advertisement, the minimum qualification and experience was prescribed. The petitioner and others applied for more than one posts. The respondent issued admit cards and petitioners appeared in the written test. The respondent declared result of the written test wherein name of petitioners figured among few top scorers. The respondent called petitioners for scrutiny of documents wherein no mis-match, in the documents uploaded vis-à-vis original produced, was discovered, accordingly, provisional list of selected candidates was uploaded on website. In the wake of orders of this Court, the respondent re-considered experience certificates of all the candidates. The respondent formed an expert committee which rejected candidature of all the short-listed candidates forming an opinion that their experience is irrelevant. The petitioners have been found eligible for the post of ITA & ITO. The qualification and experience prescribed for ITA/ITO and CDFO is same. The expert committee has widened the scope of expression 'relevant experience.'

14. From the perusal of record, arguments of both sides and conceded position following questions emanate for adjudication by this court:

- i) Whether decision of selection committee falls within scope and ambit of judicial review?
- ii) Whether the decision of selection committee to reject all the candidates is just, fair and right?

Q. No. 1 Whether decision of selection committee falls within scope and ambit of judicial review?

15. The petitioners have applied for the public post and employer being State while conducting test and selecting candidates was supposed to comply with mandate of Articles 14, 16 and 309 of the Constitution of India. State is a model employer. The respondent being State was shackled by rule of law.

16. A Constitution Bench in *State of Karnataka v. Umadevi, (2006) 4 SCC 1* while adverting with issues arising out of appointment of contractual employees and their regularisation has observed that in public employment, while making appointments, an employer is bound by mandate of constitution and statutory provisions. The state is bound to comply with rule of law contemplated by article 14, 16 and 309 of the Constitution of India. The relevant extracts of the judgment read as:

“2. Public employment in a sovereign socialist secular democratic republic, has to be as set down by the Constitution and the laws made thereunder. Our constitutional scheme envisages employment by the Government and its

instrumentalities on the basis of a procedure established in that behalf. Equality of opportunity is the hallmark, and the Constitution has provided also for affirmative action to ensure that unequals are not treated as equals. Thus, any public employment has to be in terms of the constitutional scheme.

XXXX XXXX XXXX

6. *The power of a State as an employer is more limited than that of a private employer inasmuch as it is subjected to constitutional limitations and cannot be exercised arbitrarily (see Basu's Shorter Constitution of India). Article 309 of the Constitution gives the Government the power to frame rules for the purpose of laying down the conditions of service and recruitment of persons to be appointed to public services and posts in connection with the affairs of the Union or any of the States. That article contemplates the drawing up of a procedure and rules to regulate the recruitment and regulate the service conditions of appointees appointed to public posts. It is well acknowledged that because of this, the entire process of recruitment for services is controlled by detailed procedures which specify the necessary qualifications, the mode of appointment, etc. If rules have been made under Article 309 of the Constitution, then the Government can make appointments only in accordance with the rules. The State is meant to be a model employer. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 was enacted to ensure equal opportunity for employment seekers. Though this Act may not oblige an employer to employ only those persons who have been sponsored by employment exchanges, it places an obligation on the employer to notify the vacancies that may arise in the various departments and for filling up of those vacancies, based on a procedure. Normally, statutory rules are framed under the authority of law governing employment. It is recognised that no government order, notification or circular can be substituted for the statutory rules framed under the authority of law. This is because, following any other course*

could be disastrous inasmuch as it will deprive the security of tenure and the right of equality conferred on civil servants under the constitutional scheme. It may even amount to negating the accepted service jurisprudence. Therefore, when statutory rules are framed under Article 309 of the Constitution which are exhaustive, the only fair means to adopt is to make appointments based on the rules so framed.

[Emphasis Supplied]

17. It is settled proposition of law that it is absolute discretion of employer to specify terms and conditions of selection process. It is employer who knows better than anyone else about the nature of work to be done, requisite qualification as well experience to perform for the said job. The Courts are not supposed to specify eligibility criteria/qualification or substitute opinion of authorities by its opinion. Court may interfere if it finds that there is manifest arbitrariness or violation of fundamental rights guaranteed by constitution or statutory provisions governing the appointment. Thus, the scope of interference by Courts including Constitutional Courts is very limited.

18. It is axiomatic that Courts cannot ask State to create/abolish post or formulate/structure/re-structure a cadre. It is within domain of the executive which as per its financial resources, work load, need of manpower, availability of sources etc. decides. Similarly, courts cannot substitute opinion of selection committee or ask the State to make selection in a particular manner or of particular candidates or keep the posts vacant or fill the posts, however, decision of executive can be tested on the touchstone of fundamental rights as well as statutory provisions. Constitutional courts

having been assigned role of Sentinel on the Qui Vive, thus, cannot turn a blind eye or deflect from their responsibility.

19. A three Judge Bench of Supreme Court in ***Official Liquidator v. Dayanand and Others, (2008) 10 SCC 1*** while adverting to question of regularization of temporary employees has held that courts cannot ask State to create posts to absorb employees. The findings of the court read as:

“59. The creation and abolition of posts, formation and structuring/restructuring of cadres, prescribing the source and mode of recruitment and qualifications and criteria of selection, etc. are matters which fall within the exclusive domain of the employer. Although the decision of the employer to create or abolish posts or cadres or to prescribe the source or mode of recruitment and laying down the qualification, etc. is not immune from judicial review, the Court will always be extremely cautious and circumspect in tinkering with the exercise of discretion by the employer. The Court cannot sit in appeal over the judgment of the employer and ordain that a particular post or number of posts be created or filled by a particular mode of recruitment. The power of judicial review can be exercised in such matters only if it is shown that the action of the employer is contrary to any constitutional or statutory provisions or is patently arbitrary or vitiated by mala fides.

20. A Three Judge Bench of Supreme Court in ***Dinesh Kumar Kashyap and others v. South East Central Railway and others, 2019 (12) SCC 798*** adverted to scope of judicial review in selection matters. In this case, court had occasion to decide right of candidates who were in the wait list. The Respondent-Railway called 20% extra candidates for interview who were in the wait list. It was held that Court cannot substitute decision of the Railways

and direct to appoint candidates in the wait list. Mere inclusion of name of a candidate in the selection list does not give him right of appointment. The relevant extracts of the judgment read as:

“34. Still further, in exercise of power of judicial review, this Court is not to substitute the decision of the Railways and to direct candidates in the waiting list to be appointed. In a three-Judge Bench judgment reported as Kali Dass Batish case [Union of India v. Kali Dass Batish, (2006) 1 SCC 779 : 2006 SCC (L&S) 225] , it has been held that mere inclusion of a candidate's name in the selection list gave him no right, and if there was no right, there could be no occasion to maintain a writ petition for enforcement of a non-existing right. It has been also held that however wide the power of judicial review under Article 226 or 32 of the Constitution, there is self-recognised limit to exercise such power. The Court held as under: (SCC pp. 788-90, paras 15, 17-19)

“15. In this matter, the approach adopted by the Jharkhand High Court commends itself to us. The Jharkhand High Court [Ram Kishore Prasad v. Union of India, 2003 SCC OnLineJhar492 : 2004 AIR Jhar R 2552] approached the matter on the principle that judicial review is not available in such a matter. The Jharkhand High Court also rightly pointed out that mere inclusion of a candidate's name in the selection list gave him no right, and if there was no right, there could be no occasion to maintain a writ petition for enforcement of a non-existing right.

17. In K. Ashok Reddy v. Union of India [K. Ashok Reddy v. Union of India, (1994) 2 SCC 303] , this Court indicated that however wide the power of judicial review under Article 226 or 32 there is a recognised limit, albeit self-recognised, to the exercise of such power. This Court

reiterated a passage from Craig's Administrative Law (2nd Edn., p. 291), vide SCC p. 315, para 21, as under:

'The traditional position was that the courts would control the existence and extent of prerogative power, but not the manner of exercise thereof. ... The traditional position has however now been modified by the decision in GCHQ case [Council of Civil Service Unions v. Minister for the Civil Service, 1985 AC 374 : (1984) 3 WLR 1174 (HL)] . Their Lordships emphasised that the reviewability of discretionary power should be dependent upon the subject-matter thereof, and not whether its source was statute or the prerogative. Certain exercises of prerogative power would, because of their subject-matter, be less justiciable, with Lord Roskill compiling the broadest list of such forbidden territory....'

The observations of Lord Roskill, referred to above, are from Council of Civil Service Unions v. Minister for the Civil Service [Council of Civil Service Unions v. Minister for the Civil Service, 1985 AC 374 : (1984) 3 WLR 1174 (HL)] (GCHQ case) as under: (All ER p. 956d-e)

'But I do not think that that right of challenge can be unqualified. It must, I think, depend on the subject-matter of the prerogative power which is exercised. Many examples were given during the argument of prerogative powers which as at present advised I do not think could properly be made the subject of judicial review. Prerogative powers such as those relating to the making of treaties, the defence of the realm, the prerogative of mercy, the grant of honours, the dissolution of Parliament and the appointment of ministers as well as others are not, I think, susceptible to judicial review because their nature and subject-matter is such as not to be amenable to the judicial process.'

18. Finally, this Court emphasised judicial restraint by citing with approval a passage in de Smith's Judicial Review of Administrative Action (vide K. Ashok Reddy

case [*K. Ashok Reddy v. Union of India*, (1994) 2 SCC 303] SCC p. 316, para 23) as under:

‘Judicial self-restraint was still more marked in cases where attempts were made to impugn the exercise of discretionary powers by alleging abuse of the discretion itself rather than alleging non-existence of the state of affairs on which the validity of its exercise was predicated. Quite properly, the courts were slow to read implied limitations into grants of wide discretionary powers which might have to be exercised on the basis of broad considerations of national policy.’

Based on this reasoning, it was acknowledged that the transfer of a Judge of the High Court based on the recommendation of the Chief Justice of India would be immune from judicial review as there is ‘an inbuilt check against arbitrariness and bias indicating absence of need for judicial review on those grounds. This is how the area of justiciability is reduced.... [Ibid., para 24]’

19. We, respectfully, reiterate these observations, and expect them to be kept in mind by all courts in this country invested with the power of judicial review.”

21. In ***Maneka Gandhi v. Union of India*, (1978) 1 SCC 248**, a Constitution Bench elaborated and expounded the relationship between different articles guaranteeing fundamental rights and enunciated that every action of the State is violative of article 14 which is arbitrary. Equality is antithetic to arbitrariness. Equality and arbitrariness are sworn enemies. One belongs to the rule of law in a republic, while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article 14. Justice Bhagwati speaking for the bench has held:

“7. Now, the question immediately arises as to what is the requirement of Article 14: what is the content and reach of the great equalising principle enunciated in this article? There can be no doubt that it is a founding faith of the Constitution. It is indeed the pillar on which rests securely the foundation of our democratic republic. And, therefore, it must not be subjected to a narrow, pedantic or lexicographic approach. No attempt should be made to truncate its all embracing scope and meaning, for to do so would be to violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it cannot be imprisoned within traditional and doctrinaire limits. We must reiterate here what was pointed out by the majority in *E.P. Royappa v. State of Tamil Nadu* (1974) 4 SCC 3 namely, that “from a positivistic point of view, equality is antithetic to arbitrariness. In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic, while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article 14”. Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. The principle of reasonableness, which legally as well as philosophically, is an essential element of equality or non-arbitrariness pervades Article 14 like a brooding omnipresence and the procedure contemplated by Article 21 must answer the test of reasonableness in order to be in conformity with Article 14. It must be “right and just and fair” and not arbitrary, fanciful or oppressive; otherwise, it would be no procedure at all and the requirement of Article 21 would not be satisfied.”

[Emphasis Supplied]

22. High Court is creature of Constitution and it, in terms of Article 226 of Constitution of India, has got extra ordinary writ jurisdiction. There are various articles wherein it has been either provided that decision of the

authority or institution shall be final or jurisdiction of courts is barred. Supreme Court while dealing with such articles has enunciated that judicial review is part of basic structure of our constitution and jurisdiction of High Court under Article 226 and Supreme Court under article 32 cannot be curtailed.

While considering the scope of judicial review during the operation of an order passed by the President under Article 359(1) suspending the fundamental right guaranteed under Article 21 of the Constitution, a Constitution Bench in ***Makhan Singh v. State of Punjab (1964) 4 SCR 797*** has held that the said order did not preclude the High Court entertaining a petition under Article 226 of the Constitution where a detenu had been detained in violation of the mandatory provisions of the detention law or where the detention has been ordered mala fide.

As per Article 217(3), decision of President on the question of age of a judge of High Court is final. While dealing with the decision of the President under Article 217 (3), Supreme Court in ***Union of India Vs Jyoti Prakash Mitter (1971) 1 SCC 396*** held that the President acting under Article 217(3) performs a judicial function of grave importance under the scheme of our Constitution. Notwithstanding the declared finality of the order of the President, the Court has jurisdiction in appropriate cases to set aside the order, if it appears that it was passed on collateral considerations or the Rules of natural justice were not observed or that the President's judgment was coloured by the advice or representation made by the executive or it was founded on no evidence.

As per Article 311(3) of the Constitution, the decision of an authority regarding question of conducting inquiry is final. A Constitution Bench while dealing with Article 311(3) in ***Union of India Vs. Tulsiram Patel (1985) 3 SCC 398*** held that 'finality' given by clause (3) of Article 311 is not binding upon the Court. The Court will examine the charge of mala fides, if any, made in the writ petition. The Court will consider the situation which according to the disciplinary authority made it to come to the conclusion that it was not reasonably practicable to hold the inquiry.

As per Tenth Schedule of Constitution, the decision of Speaker regarding disqualification of member of Parliament or Legislative Assembly is final. A Constitution Bench in ***Kihoto Hollohan Vs. Zachillhu & others 1992 Supp (2) SCC 651*** has held that the concept of statutory finality embodied in Paragraph 6(1) does not detract from or abrogate judicial review under Articles 136, 226 and 227 of the Constitution in so far as infirmities based on violations of constitutional mandates, mala fides, non-compliance with Rules of Natural Justice and perversity are concerned. The Speaker/Chairmen while exercising powers and discharging functions under the Tenth Schedule act as Tribunal adjudicating rights and obligations under the Tenth Schedule and their decisions in that capacity are amenable to judicial review.

23. From the above-cited judgments, it is evident that no executive or quasi-judicial decision is absolutely immune from judicial review. There are self-imposed limitations/restrictions. High court in exercise of its power of judicial review conferred by Article 226 of Constitution can certainly examine legality of a decision of selection committee. It cannot turn a blind eye. In the

peculiar facts and circumstances of the present case, this court finds it appropriate to examine validity of the decision of selection committee.

Q. No. 2 Whether the decision of selection committee to reject all the candidates is just, fair and right?

24. The petitioners have laid challenge to speaking order primarily on the ground that as per advertisement, Stage-II is meant for scrutiny of documents and respondent was supposed to examine qualification and experience prior to written test and post declaration of result, the respondent could match original documents with already uploaded documents. The final selection has to be made on the basis of written test whereas respondents acting contrary to advertisement have drawn result at its whims and caprices. The respondent in an arbitrary manner has trenched deficiency in the experience of candidates who had cleared written test and produced original documents at Stage-II. The respondents in the advertisement had required to have 12 years 'relevant experience'. The respondent could question validity of experience prior to written test but after declaration of result, experience could not be questioned. The nature of experience required for the post of ITA/ITO and CDFO is same and post of ITO is feeder cadre of CDFO. Nonetheless, the respondent has accepted same experience for the post of ITO/ITA and rejected for CDFO. The case of the petitioners is squarely covered by recent judgement of Supreme Court in *Sivanandan C.T. and Others v. High Court of Kerala and Others*, 2023 SCC OnLine SC 994.

25. For the adjudication of present petitions, it would be inevitable to look at minimum qualification and experience prescribed in the

advertisement. Clause 5.3 of the advertisement which deals with qualifications and experience is reproduced as below:

“5.3 Minimum Educational Qualifications & Experience

<i>Name of the Post</i>	<i>Educational Qualification</i>	<i>Experience</i>
Legal Officer	<i>Bachelor’s Degree in Law with minimum of fifty percent marks or equivalent from a Central or State Government recognized University or Institution.</i>	<i>Minimum experience of 07 years as a Legal practitioner or practicing lawyer in Supreme Court of India or High Courts or District Courts.</i>
Assistant Legal Officer	<i>Bachelor’s degree in Law with minimum of fifty percent marks or equivalent from a Central or State Government recognized University or Institution.</i>	<i>Minimum experience of 02 years as Legal Practitioner or practicing lawyer in Supreme Court of India or High Courts or District Courts.</i>
Forensics Officer	<i>Bachelor’s degree in Forensic Science or equivalent from a Central or State Government recognized University or Institution.</i>	<i>Minimum 07 years of relevant work experience in any Government or Quasi-Government Forensics Organization or Central or State Government Accredited Forensic Science Laboratory(ies) or Institute(s) or Central or State Government Chemical Examiner Laboratory(ies) or any Public Sector Laboratory(ies).</i>
Assistant Forensics Officer	<i>Bachelor’s degree in Forensic Science or equivalent from a Central or State Government recognized University or Institution.</i>	<i>Minimum 02 years of work experience in any Government or Quasi-Government Forensics Organization or Central or State Government Accredited Forensic Science</i>

		Laboratory(ies) or Institute(s) or Central or State Government Chemical Examiner Laboratory(ies) or any Public Sector Laboratory(ies).
Computer/ Digital Forensics Officer:	Bachelor’s degree in Computer Science, IT or Electronics and Communication with emphasis on Computer software and programming from a Central or State Government recognized or an AICTE approved University or Institution	Minimum 12 years of relevant work experience in Central Government or State Government or Public Sector Undertaking or any e-Governance Project or in Private Sector.
Information Technology Officer:	Bachelor’s degree in Computer Science, IT or Electronics and Communication with emphasis on Computer software and programming from a Central or State Government recognized or an AICTE approved University or Institution.	Minimum 07 years of relevant work experience in Central Government or State Government or Public Sector Undertaking or any e-Governance Project or in Private Sector.
Information Technology Assistant (Software)	Bachelor’s degree in Computer Science, IT or Electronics and Communication with emphasis on Computer software and programming from a Central or State Government recognized or an AICTE approved University or Institution.	Minimum 02 years of relevant work experience in Central Government or State Government or Public Sector Undertaking or any e-Governance Project or in Private Sector.
Financial Officer	Bachelor’s degree in Commerce or Finance from a Central or State Government recognized University or Institution.	Minimum 07 years of experience in accounting or banking or financial fraud investigations.
Assistant Financial Officer	Bachelor’s degree in Commerce or Finance from a Central or State Government recognized University or Institution.	Minimum 02 years of experience in accounting or banking or financial fraud investigations.

26. The respondent in the advertisement further prescribed procedure of the appointment. The relevant extracts of the advertisement read as:

“1.2 The recruitment for filling up the vacancies in the cadre of Civilian Support Staff shall be carried out through a Common Application Form (CAF) and Computer Based Test (CBT) followed by document scrutiny. The selection of a candidate shall be on the basis of their respective merit determined strictly on the basis of marks obtained in the Computer Based Test and normalization (if CBT is conducted in multiple shifts). A candidate may apply for one or more posts advertised. In case, a candidate applies for only one post in the Common Application Form, she/he shall be considered only for that post and not for the other posts of Civilian Support Staff. Candidate will be required to specify his/her order of preference if he/she applies for more than one post. In case of selection in more than one post, the candidate shall be allocated to only the post for which he/she has indicated his/her preference.

XXXX XXXX XXXX

6. SELECTION PROCESS :

The selection shall be a 2 (two) stage process consisting of following Tests:

Stage I: Computer Based Test (CBT) Objective Type having multiple choice questions.

Stage II: Document Scrutiny

XXXX XXXX XXXX

8. STAGE – II: DOCUMENT SCRUTINY:

Sufficient number of candidates would be shortlisted and called for Stage2, as per vacancy position, on the basis of merit determined by the marks obtained in the CBT Based Written Test following normalization and after factoring in reservation for various categories. Stage 2 of the selection process consisting of Document Scrutiny shall be conducted at

designated place(s), date(s) and time as decided by the Recruitment Board.

8.1 *Schedule for Stage – II:*

The schedule for Document Scrutiny shall be uploaded on the Recruitment Portal. The candidate is required to bring a hard copy (print out) of the same, along with an identity proof, for entry to the venue of the Stage 2.

8.2 *Document Scrutiny:*

Candidates called for Stage 2 of the selection process would be required to report for document scrutiny on the designated date(s) and time at the place mentioned on the Recruitment Portal. Candidates shall be required to bring the following certificates in original along with one self-attested copy of each document:

- (i) Matriculation certificate for proof of age.*
- (ii) Graduation degree&/or relevant degrees or its equivalent from a recognized Education Board/ University.*
- (iii) Proof of having passed Punjabi at Matriculation level or equivalent.*
- (iv) Certificate, issued by the Competent Authority, to support claim for reserved category, including Sports and persons with Disability, if any.*
- (v) No Objection Certificate (NOC) from the Head of Department/Office concerned, in case of candidates, who are serving government employees.*
- (vi) Certificate pertaining to professional experience as specified.*

Note 1: The candidates, whose documents uploaded with the Application Form match with the original presented on the spot during document scrutiny, shall be considered eligible for final selection.

[Emphasis Supplied]

27. From the perusal of the above clauses of the advertisement, it comes out that advertisement notified minimum 12 years 'relevant work experience', however, did not clarify what would be considered as 'relevant work experience'. The advertisement further prescribed that selection would be made on the basis of written test and second stage is meant for scrutiny of documents. The result of written test was declared and list of short-listed candidates was prepared. Requisite number of candidates were called for document scrutiny. As per aforesaid clauses, the Stage-II comprised of scrutiny of documents which was confined to matching documents uploaded at the time of filing application with original documents. The respondent was not supposed to make either comparative study of the selected candidates nor lay down nature of experience. The respondent could verify authenticity of experience certificate furnished by candidates. There could be a candidate who possessed 12 years' experience in an organization but totally unrelated to IT field e.g. as data entry operator or marketing/finance manager. This is not case of the petitioners. Here, the respondent initially accepted experience of petitioners and issued provisional list of selected candidates. The requisite minimum qualification was '*Bachelor's degree in Computer Science, IT or Electronics and Communication with emphasis on Computer software and programming from a Central or State Government recognized or an AICTE approved University or Institution*'. The expression 'relevant experience' in the absence of clarity was required to be read in conjunction with qualification. A candidate who had secured Bachelor degree in Computer Science or Electronics & Communication is supposed to have experience in the same field. Thus, in the absence anything contrary provided in the

advertisement, any candidate having experience in the field in which he possesses degree ought to be considered as 'relevant experience'. The respondent in the advertisement did not define nature of experience which led to confusion and vicious litigation. The candidates possessing requisite degree are rejected on the ground of experience. The respondent for the first time while passing speaking order dated 16.03.2023 followed by order dated 26.05.2023 notified scope of expression 'relevant work experience'.

28. There is no cavil that after commencement of recruitment process which starts from the advertisement, rules of game cannot be changed. Recruitment agency is bound to proceed in accordance with terms and conditions of the advertisement and rules governing the recruitment. This rule is based upon principle of estoppel and right of legitimate expectation. Contention of the State that no candidate has been selected, thus, there is no discrimination and violation of article 14 of the Constitution is mis-conceived and deserves to be rejected. The respondent without any reason and after declaring provisional result evolved a different meaning of expression 'relevant work experience'. The decision of respondent was contrary to terms and conditions of the advertisement as well doctrine of legitimate expectation, thus, it was arbitrary, unreasonable and violative of Article 14 & 21 of the Constitution of India.

29. A five Judge Constitution Bench in *Sivanandan C.T. (Supra)* adverted to validity of appointment of District and Sessions Judges. High Court of Kerala in 2015 invited applications for appointment as District and Sessions Judges in the Kerala State Higher Judicial Services by direct recruitment from the Bar. The notification stipulated that the selection would

be on the basis of a competitive examination consisting of a written examination and a viva-voce. The total marks assigned for the written examination were 300 comprising of two papers, each carrying 150 marks. Paragraph 5 of the notification stipulated that “*the merit list of successful candidates will be prepared on the basis of the total marks obtained in the written examination and viva voce.*” After the viva-voce was conducted, the Administrative Committee of the High Court passed a resolution by which it decided to apply the same minimum cut-off marks which were prescribed for the written examination as a qualifying criteria in the viva-voce. In coming to this conclusion, the Administrative Committee was of the view that since appointments were being made to the Higher Judicial Service, it was necessary to select candidates with a requisite personality and knowledge which could be ensured by prescribing a cut-off for the viva-voce in terms similar to the cut-off which was prescribed for the written examination. The Full Court of the High Court of Kerala approved the resolution of the Administrative Committee. The final merit list of the successful candidates was also published on the same day. The decision of the Full Court to apply minimum cut-off marks for the viva voce and the resultant promulgation of the list of successful candidates came to be challenged before Apex Court under Article 32 of the Constitution. On account of application of cut off marks in the viva-voce, many candidates were ousted though they secured higher marks than many of the candidates who were selected on the consideration of the aggregate of marks in the written examination and the viva-voce. Hon’ble Court adverted with principle of legitimate expectation and validity of amendment of rule carried out after written examination. The

Court held the amendment ultra-virus though selection was not set aside on the ground of efflux of time. The relevant extracts of the judgment read as:

“56. Under the unamended 1961 Rules, the High Court was expected to draw up the merit list of selected candidates based on the aggregate marks secured by the candidates in the written examination and the viva voce, without any requirement of a minimum cut-off for the viva voce. Thus, the decision of the Administrative Committee to depart from the expected course of preparing the merit list of the selected candidates is contrary to the unamended 1961 Rules. It is also important to highlight that the requirement of a minimum cutoff for the viva voce was introduced after the viva voce was conducted. It is manifest that the petitioners had no notice that such a requirement would be introduced for the viva voce examination. We are of the opinion that the decision of High Court is unfair to the petitioners and amounts to an arbitrary exercise of power.

57. The High Court's decision also fails to satisfy the test of consistency and predictability as it contravenes the established practice. The High Court did not impose the requirement of a minimum cut-off for the viva voce for the selections to the post of District and Sessions Judges for 2013 and 2014. Although the High Court's justification, when analyzed on its own terms, is compelling, it is not grounded in legality. The High Court's decision to apply a minimum cut-off for the viva voce frustrated the substantive legitimate expectation of the petitioners. Since the decision of the High Court is legally untenable and fails on the touchstone of fairness, consistency, and predictability, we hold that such a course of action is arbitrary and violative of Article iii. What should this Court do?

58. The question which now arises before the Court is in regard to the relief which can be granted to the petitioners. The final list of successful candidates was issued on 6 March 2017. The candidates who have been selected have been working as District and Sessions Judges for about six years. In the

meantime, all the petitioners who are before the Court have not functioned in judicial office. At this lapse of time, it may be difficult to direct either the unseating of the candidates who have performed their duties. Unseating them at this stage would be contrary to public interest since they have gained experience as judicial officers in the service of the State of Kerala. While the grievance of the petitioners is that if the aggregate of marks in the written examination and viva-voce were taken into account, they would rank higher than three candidates who are respondents to these proceedings, equally, we cannot lose sight of the fact that all the selected candidates are otherwise qualified for judicial office and have been working over a length of time. Unseating them would, besides being harsh, result in a situation where the higher judiciary would lose the services of duly qualified candidates who have gained experience over the last six years in the post of District Judge.

59. *For the above reasons, we have come to the conclusion that it would not be possible to direct the induction of the petitioners into the Higher Judicial Service at the present stage. Many of the petitioners would have since joined the Bar and would be in active practice. It needs to be clarified that their having failed to gain selection to the Higher Judicial Service in the process which was initiated on 30 September 2015, is not a reflection either on their merits or ability and shall not come in the way of their being considered for any other office, judicial or otherwise, in the future.*

E. Conclusions

60. *The following are our conclusions in view of the above discussions:*

- (i) The principles of good administration require that the decisions of public authorities must withstand the test of consistency, transparency, and predictability to avoid being termed as arbitrary and violative of Article 14;*

(ii) An individual who claims a benefit or entitlement based on the doctrine of substantive legitimate expectation has to establish the following : (i) the legitimacy of the expectation; and that (ii) the denial of the legitimate expectation led to a violation of Article 14;

(iii) A public authority must objectively demonstrate by placing relevant material before the court that its decision was in the public interest to frustrate a claim of legitimate expectation;

(iv) The decision of the High Court of Kerala to apply a minimum cut-off to the viva voce examination is contrary to Rule 2(c)(iii) of the 1961 Rules.

(v) The High Court's decision to apply the minimum cut-off marks for the viva voce frustrates the substantive legitimate expectation of the petitioners. The decision is arbitrary and violative of Article 14.

(vi) In terms of relief, we hold that it would be contrary to the public interest to direct the induction of the petitioners into the Higher Judicial Service after the lapse of more than six years. Candidates who have been selected nearly six years ago cannot be unseated. They were all qualified and have been serving the district judiciary of the state. Unseating them at this stage would be contrary to public interest. To induct the petitioners would be to bring in new candidates in preference to those who are holding judicial office for a length of time. To deprive the state and its citizens of the benefit of these experienced judicial officers at a senior position would not be in public interest.”

30. In the case in hand, the prime grouse of the petitioners is that the respondents after declaration of result of the written test followed by acceptance of their experience as ‘relevant experience’, as per its whims and

caprices, have notified scope of experience. The respondent as per its discretion has accepted same experience for two posts i.e. ITO/ITA and rejected for third i.e. CDFO, though, experience prescribed for all three posts, in the advertisement was verbatim replica. At the cost of repetition but for the sake clarity ‘experience’ prescribed for the post of ITO/ITA and CDFO is reproduced as below:

<i>Name of the Post</i>	<i>Educational Qualification</i>	<i>Experience</i>
Computer/ Digital Forensics Officer:	<i>Bachelor’s degree in Computer Science, IT or Electronics and Communication with emphasis on Computer software and programming from a Central or State Government recognized or an AICTE approved University or Institution</i>	<i>Minimum 12 years of relevant work experience in Central Government or State Government or Public Sector Undertaking or any e-Governance Project or in Private Sector.</i>
Information Technology Officer:	<i>Bachelor’s degree in Computer Science, IT or Electronics and Communication with emphasis on Computer software and programming from a Central or State Government recognized or an AICTE approved University or Institution.</i>	<i>Minimum 07 years of relevant work experience in Central Government or State Government or Public Sector Undertaking or any e-Governance Project or in Private Sector.</i>
Information Technology Assistant (Software)	<i>Bachelor’s degree in Computer Science, IT or Electronics and Communication with emphasis on Computer software and programming from a Central or State Government recognized or an AICTE approved University or Institution.</i>	<i>Minimum 02 years of relevant work experience in Central Government or State Government or Public Sector Undertaking or any e-Governance Project or in Private Sector.</i>

31. In view of settled law, the scope of experience could not be notified post advertisement whereas respondents have notified post declaration of provisional result. The respondents did not prescribe/clarify

scope of experience in the advertisement and applications were invited for the post of IT experts. The selected candidates have to join Bureau of Investigation which is a premier investigation agency of the State. It is an electronic era. There is ocean of change in the nature of offences and mode of investigation. The investigating agencies are bound to adopt scientific methods to crack the offences. Traditional methods are no more significant to solve the complicated cases. Every agency is known by its manpower. If the officers/employees manning an investigating agency are not well equipped, agency is bound to be fraught with defame and stories of unsucccess. It is constitutional duty of the State to protect its citizen from crime and criminals. State counsel is right in saying that they need best of IT persons to make the agency professional which may handle hard criminal cases.

32. The advertisement did not specify scope of 'relevant work experience' and Stage-II comprised of document scrutiny. The respondent as per advertisement was duty bound to select candidates on the basis of written test. The respondent could reject candidature of an applicant prior to written test and Stage-II comprised of mere matching of uploaded documents with original. As per law enunciated by Apex Court, the recruitment agency cannot change rules of the game i.e. terms and conditions of the selection process. As per advertisement, a candidate was supposed to possess minimum qualification and minimum experience. The final selection has to be made on the basis of written test and Stage-II comprised of scrutiny of documents. The right of legitimate expectation accrued to those candidates who appeared in the written test and cracked the same. The recruitment agency was bound to follow rules of the advertisement and could not deviate from prescribed

procedure. Prescription of scope of experience after publication of provisional list of selected candidates was in gross violation of general principles of administrative law as well as doctrine of legitimate expectation. The state is bound to maintain uniformity, consistency and transparency. Clandestine prescription of scope of experience post declaration of result amounts to violation of recruitment rules as well as principle of legitimate expectation. The candidates are going to be appointed for Bureau of Investigation and they have to perform job of IT experts. A candidate having minimum academic qualification was supposed to carry experience of 12 years. The State was duty bound to verify experience otherwise prescription of minimum experience would become otiose, thus, State cannot be asked to make appointments mechanically. The State in the public interest and for the public cause may act contrary to legitimate expectation of candidates. The State has failed to establish that all the candidates have been rejected in the public interest. By accepting same experience for the post of ITO which is feeder cadre and when experience prescribed for both the posts is identically worded, it cannot be countenanced that State has cancelled entire slot of candidates in the public interest. The sole defence of the State is that expert committee did not find experience of candidates suitable. The committee at the last leg of the selection process could not come out with a plea that experience of candidates is not relevant especially when same experience at the time of provisional result as well final for the post of ITO/ITA was accepted.

33. The petitioners during the course of arguments successfully demonstrated that in the advertisement where experience is linked with post, it was so notified e.g. in the case of post of Legal Officer, 7 years' experience as

practicing lawyer in Supreme Court or High Court or District Court is required. Similarly, in case of post of Forensics Officer, 7 years' experience with Forensics organization or Forensics Laboratory is required. In both cases, experience is linked with post. A law graduate having experience with an organization is ineligible. Similarly, a graduate of Forensics Science may not be working with Forensics Organization or laboratory. This Shows that respondent, wherever necessary, linked experience with job and not qualification. The respondent has raised lame excuse that domain experts have found experience of candidates irrelevant. It is true that this Court cannot substitute opinion of domain expert, nonetheless, cannot ignore patent irregularity, irrationality and absurdity.

34. The respondent had advertised posts for Bureau of Investigation and selected candidates are supposed to have degree in IT/Computer Science/Electronic with experience of twelve years. They have to assist police officials to crack hard criminal cases, thus, public interest in the appointment of candidates is involved. The advertisement consisted of two stages of selection process and Stage-II comprised of documents scrutiny. The selection had to be made on the basis of written test and experience of 12 years. Nature of experience was not specified in the advertisement. Specification of 'relevant work experience' after declaration of result was contrary to advertisement, rules of game and legitimate expectation of the candidates.

35. The Stage-I consisted of written test of 100 multiple choice questions carrying 400 marks. In the advertisement, syllabus for each post was notified. The syllabus for the post of CDFO comprised of Digital Forensic Tools (40 marks), Digital Forensics (40 marks), Computer Forensic Tools (60

marks), Windows Systems and Artifacts (40 marks), Mobile Phone Forensics (60 marks), Introduction to Network Security and Associated Techniques (40 marks), Language-English (32 marks), Punjabi (28 marks), General Awareness (20 marks), Quantitative Aptitude (20 marks) and Mental Logical Ability (20 marks). The syllabus was directly linked with post and petitioners cleared the written test. There was no viva voce or practical test which indicated that knowledge of candidates was assessed on the basis of written test. In the absence of interview or practical test, there was no reason to disbelieve experience possessed by candidates which was directly linked with their educational qualification and at the time of release of provisional list was also accepted. The domain experts have accepted experience for the post of ITO/ITA, thus, there was no reason to reject when required experience for the post of ITO/ITA and CDFO is same and ITO is feeder cadre of CDFO. An employee working on the post of ITO would not get experience of CDFO.

36. From the above discussion, it comes out that in the advertisement multiple 'terms and conditions' were jotted down. In case of other posts 'experience' was directly linked with the post but it was not so in case of ITA/ITO/CDFO. The recruitment board after scrutiny of documents initially accepted experience of short-listed candidates and issued provisional select list. The experience prescribed for the post of ITO/ITA and CDFO is same. The respondent has accepted same experience for the posts of ITO/ITA and rejected for the post of CDFO. Post of ITO is feeder cadre of CDFO. No oral/practical test was prescribed and written test comprised of different subjects directly linked with post. There is no material disclosing that candidature of everyone was rejected in the public interest. The petitioners

cleared written test and they were wielding experience linked with educational qualification, thus, right of legitimate expectation accrued to them. The respondent after releasing provisional list of selected candidates decided to link experience with post which culminating in rejection of all the candidates.

37. In the wake of above discussion and findings, this Court finds that rejection of all the candidates on the basis of criteria evolved after release of provisional list was contrary to terms & conditions of the advertisement and doctrine of legitimate expectation recognized by Supreme Court. The respondent was duty bound to complete recruitment process as per advertisement. Thus, the respondents are hereby directed to reconsider case of all the short-listed candidates as per terms and conditions of the advertisement. The needful shall be done within 2 months from the date of receipt of certified copy of this order.

38. The petitions stand disposed of in above terms.

39. All pending applications also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

19.03.2024
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>