



CWP-4965-2025

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

117 CWP-4965-2025
Date of Decision:21.02.2025

Mohit Sheokand Petitioner

Versus

State of Haryana and others Respondents

118 CWP-4970-2025
Date of Decision:21.02.2025

SandeepPetitioner

Versus

State of Haryana and othersRespondents

121 CWP-4987-2025
Date of Decision:21.02.2025

Vikram Singh Bhambhu Petitioner

Versus

State of Haryana and others Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Jasbir Mor, Advocate for the petitioner(s).

Ms. Shruti Jain Goyal, Senior DAG, Haryana,

Ms. Rajni Gupta, Advocate
for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

1. By this common order, CWP-4965-2025, CWP-4970-2025 and CWP-4987-2025 are being disposed of since issues involved in all the petitions and prayer sought are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-4965-2025.



2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking revision of final result dated 22.04.2021 (Annexure P-5) whereby his juniors have been selected.

3. The petitioner pursuant to advertisement No.11/2019 dated 05.07.2019 applied for the post of Junior System Engineer (JSE). In the advertisement, it was provided that there would be 10 marks under socio-economic criteria. The petitioner was not held entitled to marks under said criteria. He claims that many candidates who scored lesser marks than him in the written test as well as interview have been selected on account of marks for socio-economic criteria. If the marks awarded to other candidates on the basis of socio-economic criteria are deleted, he would be in the merit list. A Division Bench of this Court vide judgment dated 31.05.2024 has declared awarding of 10 marks for socio-economic criteria invalid. As awarding marks for socio-economic criteria stands declared invalid, the marks already awarded to selected candidates need to be deleted and result deserves to be revised.

4. The State has challenged order dated 26.02.2024 passed by learned Single Judge in **CWP-8399-2020** before the Division Bench by way of **LPA-2697-2024**.

5. I have heard the argument and perused the record.

6. A Division Bench of this Court in **“Sukriti Malik veruss State of Haryana and others, CWP-1563-2024”** vide judgment dated 31.05.2024 declared socio-economic criteria introduced vide amendment notification dated 05.05.2022 invalid. The operative operation of the judgment dated 31.05.2024 is reproduced as below:

79. Keeping in view our aforementioned findings, we conclude as under:-



A) The socio economic criteria introduced vide amendment notification dated 05.05.2022 is quashed and set aside. The bonus marks granted on the basis of socio economic criteria held to be violative of Articles 14, 15 and 16 of the Constitution of India.

B) CET result declared on 10.01.2023 as well as subsequent result dated 25.07.2023 are quashed. It is directed that the fresh merit shall be now prepared solely on the basis of the CET marks of the candidates who have appeared in the same. Making it as a basis, the State/Commission shall now issue a fresh advertisement for filling up various posts and each candidate shall be allowed to apply strictly in accordance with the Rules for the posts and if more than four times applicants are available for the posts, the respondents may lay down a cut-off of the CET for the purpose of participation. The Rules for examination shall accordingly follow. The result shall be declared accordingly.

C) Those candidates, who have been appointed on various posts on the basis of the earlier result, shall be allowed to participate in the fresh selection process if they fall in the new merit list of the CET. Till fresh selection is prepared they shall be allowed to continue to perform their duties on the posts to which they have appointed. However, if they are not selected ultimately in the fresh process, they shall have to leave the posts and their appointments shall stand terminated forthwith. No right shall be created in their favour on account of continuing on the posts nor will they be entitled to claim any benefit on account of the same except the salary for the period during which they perform their duties.

D) Keeping in view our findings relating to conducting of examination without declaring the result of CET finally by the Commission, we direct the Chief Secretary, Haryana to take steps to appoint a suitable candidate having experience of conducting examinations as Secretary of the Haryana



Staff Selection like the Controller of Examinations of any State Universities.

E) In order to maintain transparency and consistency, the Commission is henceforth directed to frame Rules of the Commission for conducting of its examinations without leaving any discretion for its officials or Members to take decisions on their whims and fancies which has resulted in the present litigation.

F) The exercise shall be completed afresh positively within a period of six months.

7. The aforesaid judgment was assailed before the Supreme Court by way of Special Leave Petition which came to be dismissed vide order dated 24.06.2024.

8. The present matter relates to selection process which was initiated in 2019. In the notification dated 11.06.2019 issued by State Government, 10 marks were earmarked for socio-economic criteria and experience. The notification dated 11.06.2019 is reproduced as below:

“HARYANA GOVERNMENT

GENERAL ADMINISTRATION DEPARTMENT (GENERAL SERVICES)

Notification

The 11th June, 2019

No. G.S.R. 25/Const./Art.309/2019.- *In exercise of the powers conferred by the provide to article 309 of the Constitution of India, the Governor of Haryana hereby makes the following amendment in the Haryana Government, General Administration Department (General Services), Notification No. 523-3GS-70/2068, dated the 28th January, 1970, namely:*

AMENDMENT

In the Haryana Government, General Administration Department, General Services, Notification No.523-3GS-70/2068, dated the 28th January, 1970, in para 6, for clause (d), the following clause shall be substituted, namely:



"(d) (i) The selection and recommendation of the names of the candidates belonging to Group B posts viz. Teacher, Educational supervisor, Teacher Educator in School Education Department and Group C posts in all departments shall be done on the basis of written exam, socio-economic criteria and experience.

(ii) The Commission shall be at liberty to set the number of questions, marks per question and duration of written examination. The scheme of marks in respect of selection to the post shall comprise of total 100 marks, as detailed below, namely:-

Serial Number	Subject	Marks
1	Written exam	90
2	Socio-economic criteria and experience	10

(iii) The 90 marks for written exam shall be divided into two parts comprising

(a) 75% weightage for General Awareness, Reasoning, Maths, Science, Computer, English, Hindi and concerned or relevant subject, as applicable;

(b) 25% weightage for History, Current Affairs, Literature, Geography, Civics, Environment, Culture etc. of Haryana.

(iv) The 10 marks for socio-economic criteria and experience shall be allocated as follows,-

(a) if neither the applicant nor any person from among the applicant's family viz father, mother, spouse, brothers and sons is, was or has been a regular employee in any Department Board Corporation/ Company/ Statutory Body Commission/ Authority of Government of Haryana or any other State Government or the Government of India;

(5 marks)

(b) if the applicant is,-

(i) a Widow; or

(ii) the first or the second child and his father had died before attaining the age of forty two years; or

(iii) the first or the second child and his father had died before the applicant had attained the age of fifteen years,

(5 marks)

(c) if the applicant belongs to such a denotified tribe (Vimukt Jatis and Tapriwas Jatis) or Nomadic tribe of the State of Haryana which is neither a Scheduled Caste nor a Backward Class:

(5 marks)

(d) **Experience:** One-half (=0.5) mark for each year or part



thereof exceeding six months of experience, out of a maximum of sixteen years, on the same or a higher post in any Department/Board Corporation/ Company/ Statutory Body/ Commission/Authority of Government of Haryana. No marks shall be awarded for any period less than six months.

(maximum 8 marks)

Note: *No applicant shall be given more than a total of 10 marks for socio-economic criteria and experience under any circumstances."*

*D. S. DHESI,
Chief Secretary to Government, Haryana."*

9. From the perusal of judgment dated 31.05.2024 passed by Division Bench of this Court, it is evident that notification dated 05.05.2022 was set aside. The notification dated 11.06.2019 was not the subject matter of aforesaid judgment rather the same Division Bench has reviewed its order qua **CWP-6731-2024** which was relating to advertisement issued in 2019. The order dated 24.01.2025 whereby Division Bench reviewed its order qua **CWP-6731-2024** is reproduced as below:

*"1. The present review application is preferred by the State of Haryana pointing out that CWP-6731-2024, titled as **Deepak Vs. State of Haryana and Others** was a different Writ Petition than the other bunch of Writ Petitions decided by his Court vide order dated 31.05.2024, where the selection and notification dated 05.05.2022 was under challenge. In the present case i.e. CWP-6731-2024, the challenge was to the selections made earlier in the year 2022 relating to an advertisement issued in the year 2019.*

2. Learned counsel for the review-applicant has also pointed out that in CWP-6731-2024, notices had not been issued to the respondents-State nor had they filed any reply. The appointments stood already concluded in the year 2022, while CWP-6731-2024 was filed in the year 2024. In the garb of the order dated 31.05.2024 passed by this Court re-



lating to the subsequent selections, a spate of new litigation has been started relating to the earlier selections, where the appointments and selections stood already concluded.

3. *Learned counsel for the review-applicant submits that while the SLP No.13275-13277 of 2024 was dismissed by the Hon'ble Supreme Court on 24.06.2024, the present case requires to be reviewed so far as CWP-6731-2024 is concerned as the same is not relating to the judgment already passed by this Court. In support of her submissions, she also relies on the **Kunhayammed Vs. State of Kerala** (2000) 6 SCC 359 as well as **State of Uttar Pradesh and Another Vs. Virendra Bahadur Katheria and Others: 2024 INSC 524**, to submit that the review would lie.*

4. *We find that the present case CWP-6731-2024, seems to have been wrongly tagged in a bunch of cases tagged by us and needs to be examined separately. We, therefore, declare the said case to be de-tagged from the Bunch of cases decided by us on 31.05.2024 and to that extent we review our order dated 31.05.2024. The present order shall be treated as part and parcel of order dated 31.05.2024. The Registry is directed to list CWP-6731-2024 afresh as per Roster.”*

10. From the conjoint reading of different orders passed by Division Bench of this Court and notification dated 11.06.2019, it is evident that neither notification dated 11.06.2019 was under challenge before Division Bench nor was set aside. It is apt to notice that notification of 2019 is under challenge in **CWP-6731-2024** which is still pending before the Division Bench.

11. The selection process stands completed. The notification dated 11.06.2019 was part of advertisement which was issued in 2019. The petitioner was well aware of said notification. Having declared unsuccessful in the selection process, he is trying to challenge selection



process at this belated stage.

12. A two Judge Bench of Apex Court in '*Tajvir Singh Sodhi and Others v. State of Jammu and Kashmir and Others*', 2023 SCC OnLine SC 344 has held that candidates, having taken part in the selection process without any demur or protest, cannot challenge the same after having been declared unsuccessful. The candidates cannot approbate and reprobate at the same time. A candidate cannot allege that selection process was unfair or there was some lacuna in the process just because selection process was not palatable to a candidate. The relevant extracts of the judgment read as:

“67. Thus, Courts while exercising the power of judicial review cannot step into the shoes of the Selection Committee or assume an appellate role to examine whether the marks awarded by the Selection Committee in the viva-voce are excessive and not corresponding to their performance in such test. The assessment and evaluation of the performance of candidates appearing before the Selection Committee/Interview Board should be best left to the members of the committee. In light of the position that a Court cannot sit in appeal against the decision taken pursuant to a reasonably sound selection process, the following grounds raised by the writ petitioners, which are based on an attack of subjective criteria employed by the selection board/interview panel in assessing the suitability of candidates, namely, (i) that the candidates who had done their post-graduation had been awarded 10 marks and in the viva-voce, such PG candidates had been granted either 18 marks or 20 marks out of 20. (ii) that although the writ petitioners had performed exceptionally well in the interview, the authorities had acted in an arbitrary manner while carrying out the selection process, would not hold any water.

68. The next aspect of the matter which requires consideration is the contention of the writ petitioners to the effect that the entire selection process was vitiated as the eligibility criteria enshrined in the Advertisement Notice dated 5th May, 2008 was recast vide a corrigendum dated 12th June, 2009,



without any justifiable reason. In order to consider this contention, regard may be had to the following case law:

i) In Manish Kumar Shahi v. State of Bihar, (2010) 12 SCC 576, this Court authoritatively declared that having participated in a selection process without any protest, it would not be open to an unsuccessful candidate to challenge the selection criteria subsequently.

ii) In Ramesh Chandra Shah v. Anil Joshi, (2013) 11 SCC 309, an advertisement was issued inviting applications for appointment for the post of physiotherapist. Candidates who failed to clear the written test presented a writ petition and prayed for quashing the advertisement and the process of selection. They pleaded that the advertisement and the test were ultra vires the provisions of the Uttar Pradesh Medical Health and Family Welfare Department Physiotherapist and Occupational Therapist Service Rules, 1998. After referring to a catena of judgments on the principle of waiver and estoppel, this Court did not entertain the challenge for the reason that the same would not be maintainable after participation in the selection process. The pertinent observations of this Court are as under:

“24. In view of the propositions laid down in the above noted judgments, it must be held that by having taken part in the process of selection with full knowledge that the recruitment was being made under the General Rules, the respondents had waived their right to question the advertisement or the methodology adopted by the Board for making selection and the learned Single Judge and the Division Bench of the High Court committed grave error by entertaining the grievance made by the respondents.”

iii) Similarly, in Ashok Kumar v. State of Bihar, (2017) 4 SCC 357, a process was initiated for promotion to Class-III posts from amongst Class-IV employees of a civil court. In the said case, the selection was to be made on the basis of a written test and interview, for which 85% and 15%



marks were earmarked respectively as per norms. Out of 27 (twentyseven) candidates who appeared in the written examination, 14 (fourteen) qualified. They were interviewed. The committee selected candidates on the basis of merit and prepared a list. The High Court declined to approve the Select List on the ground that the ratio of full marks for the written examination and the interview ought to have been 90 : 10 and 45 ought to be the qualifying marks in the written examination. A fresh process followed comprising of a written examination (full marks - 90 and qualifying marks - 45) and an interview (carrying 10 marks). On the basis of the performance of the candidates, results were declared and 6 (six) persons were appointed on Class-III posts. It was thereafter that the appellants along with 4 (four) other unsuccessful candidates filed a writ petition before the High Court challenging the order of the High Court on the administrative side declining to approve the initial Select List. The primary ground was that the appointment process was vitiated, since under the relevant rules, the written test was required to carry 85 marks and the interview 15 marks. This Court dismissed the appeals on the grounds that the appellants were clearly put on notice when the fresh selection process took place that the written examination would carry 90 marks and the interview 10 marks. The Court was of the view that the appellants having participated in the selection process without objection and subsequently found to be not successful, a challenge to the process at their instance was precluded. The relevant observations are as under:

“13. The law on the subject has been crystalized in several decisions of this Court. In Chandra Prakash Tiwari v. Shakuntala Shukla, this Court laid down the principle that when a candidate appears at an examination without objection and is subsequently found to be not successful, a challenge to the process is precluded. The question of entertaining a petition challenging an examination



would not arise where a candidate has appeared and participated. He or she cannot subsequently turn around and contend that the process was unfair or that there was a lacuna therein, merely because the result is not palatable. In *Union of India v. S. Vinodh Kumar*, (2007) 8 SCC 100, this Court held that: “18. It is also well settled that those candidates who had taken part in the selection process knowing fully well the procedure laid down therein were not entitled to question the same (See also *Munindra Kumar v. Rajiv Govil*, (1991) 3 SCC 368 and *Rashmi Mishra v. M.P. Public Service Commission*, (2006) 12 SCC 724).”

13. In the wake of above discussion and findings, this Court is on the considered opinion that instant petitions are misconceived and deserve to be dismissed, thus, dismissed.

(JAGMOHAN BANSAL)
JUDGE

21.02.2025
Nisha-1

Whether speaking/reasoned	Yes
Whether Reportable	Yes