



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

239+240

CWP-9390-2022 (O & M)
Date of Decision: 03.03.2025

Rubal Chaudhary

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

Sr. No.	Case No.	Parties Name
2.	CWP-2367-2022	Narender Kumar vs. State of Haryana and another
3.	CWP-11657-2022	Jagvinder Singh and another vs. State of Haryana and others
4.	CWP-22670-2021	Narender Kumar vs. Haryana Staff Selection Commission
5.	CWP-3371-2022	Amit Singh vs. State of Haryana and others

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Deepak Sonak, Advocate
for the petitioner in CWP-9390-2022.

Mr. Gopal Sharma, Advocate
for the petitioner in CWP-2367-2022 &
CWP-22670-2021.

Mr. P.S. Chauhan, Advocate and
Mr. Aman Yadav, Advocate
for the petitioner in CWP-11657-2022.

Mr. Ajit Sihag, Advocate
for the petitioner in CWP-3371-2022.

Ms. Palika Monga, DAG, Haryana.

Mr. B.R. Mahajan, Sr. Advocate with
Ms. Nikita Goel, Advocate,
Mr. Jagbir Malik, Advocate and
Mr. Shivam Malik, Advocate
for the respondent-HSIIDC.



Mr. Rahul Jaswal, Advocate
for respondent No.3 in CWP-2367-2022
for respondent No.4 in CWP-9390-2022.

JAGMOHAN BANSAL, J. (Oral)

1. By this common order, above noted writ petitions are hereby adjudicated as issues involved and prayer sought in all the petitions are common. For the sake of convenience and with the consent of parties, the facts are borrowed from **CWP-9390-2022**.

2. The petitioner through instant petition under Articles 226 and 227 of the Constitution of India is seeking direction to respondent No.3-Haryana Staff Selection Commission (HSSC) to include his name in the final selection list for the post of Legal Assistant with respondent No.2-Haryana State Industrial and Infrastructure Development Corporation Ltd. (HSIIDC).

3. HSSC on the requisition of HSIIDC issued advertisement No.14/2019 dated 26.08.2019 for 11 posts of Legal Assistant. The aforesaid posts included 6 for general category and others for reserved category. In the advertisement, essential qualification was prescribed which reads as under:-

“Essential Qualifications:-

1. Graduate (2nd Division), LL.B Professional (2nd Division) and having at least 2 yrs. experience in Govt./ Commerical organizations/Financial Institution/ Banks in drafting of deeds/agreements/terms/conditions/examinations of legal documents and pursuing of legal cases.

2. Hindi/Sanskrit as one of the subject in Matriculation or Higher.”

4. The petitioner pursuant to aforesaid advertisement applied for the post of Legal Assistant. He alongwith application form uploaded his experience



the time of scrutiny of documents, he submitted another experience certificate besides certificate uploaded alongwith application form. The respondent rejected his candidature on the ground that he does not possess requisite experience which is part of essential qualification.

5. Mr. Deepak Sonak, Advocate submits that the petitioner (**in CWP-9390-2022**) is having 9 years' experience. He alongwith application form uploaded experience certificate of Bar though he was having experience of working with a commercial organization. He had worked for one commercial organization for more than 2 years and during the said period was getting Rs.30,000/- per month. He was supposed to draft contracts, agreements, deeds and other legal documents. He was pursuing matters of said organization in the Courts, thus, he was having requisite experience. He, as per his understanding, uploaded experience certificate of Bar, however, produced requisite certificate at the time of documents verification. His candidature has been wrongly rejected. The HSSC was also doubtful about the experience certificate of Bar which compelled it to seek clarification from HSIIDC. In the clarification of HSIIDC, it has been mentioned that experience with Bar would not be considered, however, experience with any commercial organization is valid.

6. Mr. Gopal Sharma submits that petitioner (**in CWP Nos.2367 of 2022 and 22670 of 2021**) was indubitably having 3rd Division in Graduation, however, secured 1st Division in Post Graduation. The respondent in the reply submitted in CWP-21088-2008 has conceded that if a candidate secures requisite Division in higher qualification, the requirement of requisite Division in lower degree may be ignored e.g. if as per advertisement there is requirement



Division in Post Graduation, the requirement would stand complied with. The said reply is based upon letter dated 16.06.1979 of Chief Secretary. The State Government is following said letter till date which is evident from letter dated 25.03.2016.

7. Mr. P.S. Chauhan and Mr. Ajit Sihag, Advocates submit that petitioners (**in CWP Nos. 11657 and 3371 of 2022**) are having experience of Bar though they do not possess experience with a commercial organization. The experience of Bar cannot be ignored because advertisement does not require that candidate must have worked with a commercial organization/financial institution, bank as a regular employee. The petitioners were appearing before District Court in many commercial matters. Thus, they possess experience of commercial matters.

8. *Per contra*, learned counsel for the respondents submit that petitioner was required to upload experience certificate alongwith application form. No document which was neither mentioned in the application form nor uploaded alongwith application form could be considered. The petitioner was having 9 years' Bar experience but he had no experience with a commercial organization as per documents enclosed with the application form. In the terms and conditions of the advertisement, it is specifically mentioned that documents uploaded with application form can only be considered. A candidate having 3rd Division in Graduation or LL.B cannot be considered at all. Higher degree with better Division is immaterial.

9. I have heard the arguments and perused the record.

10. From the perusal of advertisement, it is evident that a candidate was required to possess degree of Graduation in 2nd Division. He was also required



to possess degree of LL.B Professional in 2nd Division. Apart from academic qualifications, he was required to have at least 2 years' experience in Government/commercial organizations/financial institutions/banks in drafting of deeds/agreements/terms/conditions/examination and legal documents. Apart from having experience of documentary, he was required to have experience of pursuing legal cases. Clause 3.1 of the advertisement prescribes documents which are required to be uploaded with application form. It categorically provides that uploading of documents is mandatory. Clause 3.2 of the advertisement provides for scrutiny of documents. It provides that if there is variation in the documents uploaded and produced at the time of scrutiny, candidature shall be liable to be cancelled. Clauses 3.1 and 3.2 of the advertisement are reproduced as below:-

***3.1 Documents to be uploaded with Application Form
(MANDATORY)***

- 1. Scanned Copy of Essential (Academic) Qualifications and Matriculation Certificate showing Date of Birth and other relevant details.*
- 2. Scanned Copy of SC/BCA/BCB/EWS/ESP/ESM/DESM/DFF/PWD (Person with Disabilities) certificate alongwith Haryana domicile Certificate issued by competent authority.*
- 3. Scanned copy of Certificate claiming weightage/marks under socio-economic criteria and experience alongwith Haryana domicile Certificate issued by competent authority.*
- 4. Scanned Photo duly signed by the Candidate.*
- 5. Scanned signatures of the Candidate.*
- 6. Scanned copy of all documents showing higher qualification, experience etc. on which basis candidate claim marks.*

3.2 Scrutiny of Documents: Only those document which

2025.PHHC.029769



are uploaded by the candidates shall be considered. If there is any variation in the document uploaded and produced at the time of scrutiny candidature shall be liable to be cancelled. If any application is found without uploading requisite supporting documents and other relevant information, the candidate himself/herself shall be responsible for that and his/her candidature would be liable to be cancelled due to lack of proper or correct documents/information.”

11. From the perusal of essential qualification prescribed in the advertisement as well as aforesaid clauses, it is evident that a candidate was eligible subject to compliance of following conditions:-

- (i) He must be Graduate (2nd Division);
- (ii) He must be possessing professional degree in LL.B (2nd Division);
- (iii) He must have two years' experience in Government/commercial organizations/ financial institutions/ banks in drafting of deeds /agreements/ terms/ conditions/ examination and legal documents;
- (iv) He must have pursued legal cases and
- (v) He must have uploaded copy of essential academic qualifications.

The candidates were not mandatorily required to upload experience certificate, however, an experience certificate not uploaded alongwith application form could not be considered at the time of scrutiny of documents because Clause 3.2 of the advertisement categorically provides that only those documents which are uploaded by the candidate shall be considered.

12. In **CWP-9390-2022**, the petitioner uploaded his Bar experience certificate. He did not submit experience certificate disclosing his engagement



the advertisement could not be considered. The petitioner, as per his wisdom, submitted experience certificate of Bar and did not submit experience certificate with a commercial organization. The language of the advertisement is unambiguous. It does not permit experience of Bar. It requires experience in a Government organization or commercial organization. The experience is further required to be with respect to drafting of deeds/agreements/legal documents. It is further apt to notice that experience certificate submitted by petitioner with a commercial organization is not on the letter head of the organization whereas it is on the letter head of petitioner himself. He has signed the agreement and got it approved from the Director of the company.

12.1 In **CWP Nos.2367 of 2022 and 22670 of 2021**, the petitioner indubitably was possessing Degree of Graduation in 3rd Division. He is having degree of Post Graduation in 1st Division. He is claiming that as per instructions issued by Government, if a candidate has secured higher qualification and in the higher qualification, he is having requisite Division, it would amount to compliance of terms and conditions of the advertisement. He is relying upon one letter issued by Chief Secretary. Neither in the Rules nor in the advertisement, it has been provided that higher qualification may be considered. There is one candidate namely Hiteshwar Kumar Yadav who had secured 48% marks in LL.B. still has been selected.

12.2 In **CWP Nos. 11657 and 3371 of 2022**, the petitioners did not upload experience certificate as per advertisement. They were having experience certificate of Bar. They were not having experience with a bank, Government/commercial organization with respect to drafting of documents or terms and conditions of the deeds. Experience of Bar was irrelevant. In the



advertisement, it was categorically mentioned that experience should be with specified organizations and with respect to drafting as well as pursuing legal cases. Experience as a Practicing Lawyer is entirely different from experience working in an organization and drafting the petitions.

13. A three judge Bench of Apex Court in ***K. Manjusree v. State of Andhra Pradesh (2008) 3 SCC 512*** while dealing with the change of recruitment criteria mid-way the selection process has held it to be impermissible. The relevant extracts of the judgment read as:-

*“27. But what could not have been done was the second change, by introduction of the criterion of minimum marks for the interview. The minimum marks for interview had never been adopted by the Andhra Pradesh High Court earlier for selection of District & Sessions Judges, (Grade II). In regard to the present selection, the Administrative Committee merely adopted the previous procedure in vogue. The previous procedure as stated above was to apply minimum marks only for written examination and not for the oral examination. We have referred to the proper interpretation of the earlier Resolutions dated 24.7.2001 and 21.2.2002 and held that what was adopted on 30.11.2004 was only minimum marks for written examination and not for the Interviews. Therefore, introduction of the requirement of minimum marks for interview, after the entire selection process (consisting of written examination and interview) was completed, would amount to changing the rules of the game after the game was played which is clearly impermissible. We are fortified in this view by several decisions of this Court. It is sufficient to refer to three of them - ***P.K. Ramachandra Iyer v. Union of India, Umesh Chandra Shukla v. Union of India, and Durgacharan Misra v. State of Orissa.****



XXX

XXX

36. The Full Court however, introduced a new requirement as to minimum marks in the interview by an interpretative process which is not warranted and which is at variance with the interpretation adopted while implementing the current selection process and the earlier selections. As the Full Court approved the Resolution dated 30.11.2004 of the Administrative Committee and also decided to retain the entire process of selection consisting of written examination and interviews it could not have introduced a new requirement of minimum marks in interviews, which had the effect of eliminating candidates, who would otherwise be eligible and suitable for selection. Therefore, we hold that the action of Full Court in revising the merit list by adopting a minimum percentage of marks for interview was impermissible”

In ‘Ankita Thakur and others Vs. H.P. Staff Selection Commission and others’ 2023 SCC OnLine SC 1472, different questions including:-

(i) Relaxation in the essential eligibility qualification, post the last date fixed for receipt of application from the candidates and (ii) Validity of holding qualification other than prescribed by advertisement though allegedly higher, came up for consideration before the Court. The Court with respect to relaxation of essential eligibility qualification post last date fixed for receipt of application form held that power to relax the eligibility criteria can be exercised, if such power is reserved in the advertisement. If this power is exercised, there must be wide publicity of its exercise so that persons likely to be affected must get opportunity to apply and compete. With respect to validity of holding qualification other than prescribed by the rules or



advertisement, the Court has held that in the absence of rules or advertisement, qualification may be higher or equivalent to the one specified, cannot be entertained and candidature of the applicant shall be rejected.”

A Constitutional Bench in **‘Tej Prakash Pathak v. High Court of Rajasthan’, 2024 SCC OnLine SC 3184**, has approved opinion in K Manjusree (supra) and held that eligibility criteria cannot be altered after commencement of the selection process. The Court has held:

“65. We, therefore, answer the reference in the following terms:

65.1. Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up of vacancies;

65.2. Eligibility criteria for being placed in the select list, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness;

*65.3. The decision in **K. Manjusree v. State of A.P., (2008) 3 SCC 512** lays down good law and is not in conflict with the decision in Subash Chander Marwaha [State of Haryana v. Subash Chander Marwaha, (1974) 3 SCC 220 Subash Chander Marwaha [State of Haryana v. Subash Chander Marwaha, (1974) 3 SCC 220] deals with the right to be appointed from the select list whereas K. Manjusree [K. Manjusree v. State of A.P., (2008) 3 SCC 512] deals with the right to be placed in the select list. The*



two cases therefore deal with altogether different issues;

65.4. Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, non-discriminatory/non-arbitrary and has a rational nexus to the object sought to be achieved;

65.5. Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the rules are non-existent or silent, administrative instructions may fill in the gaps;

65.6. Placement in the select list gives no indefeasible right to appointment. The State or its instrumentality for bona fide reasons may choose not to fill up the vacancies. However, if vacancies exist, the State or its instrumentality cannot arbitrarily deny appointment to a person within the zone of consideration in the select list.”

14. A conspectus of the afore-cited judgments reveals that recruitment agency after commencement of selection process cannot change eligibility criteria other than immaterial terms and conditions of the advertisement unless and until rules/advertisement permit and all the affected parties are informed well in advance. The terms and conditions of advertisement cannot be contrary to applicable rules. Amendment in advertisement or change in criteria after commencement of selection process is bad in the eye of law. Qualification other than jotted down in the advertisement or rules cannot be considered irrespective of higher or equivalent.

15. In the case in hand:

(i) In CWP-9390-2022, the petitioner uploaded experience certificate of Bar which was not relevant. The requisite experience certificate, if



certificate could not be entertained in view of Clause 3.2 of the advertisement.

(ii) In CWP Nos.2367 of 2022 and 22670 of 2021, the petitioner was possessing Degree of Graduation in 3rd Division whereas as per advertisement, it should be 2nd Division. He was having Degree of Post Graduation in 1st Division. In view of afore-cited judgments, any qualification other than prescribed, though may be higher, cannot be considered. The petitioner is primarily relying upon instructions issued by Government. Those instructions are neither part of applicable Rules nor of the advertisement. If the Government has issued instructions with respect to a particular advertisement or particular exam or in general, cannot be relied upon and made basis of judgment of this Court. This Court in view of afore-cited judgments can consider qualification prescribed in the advertisement as well as Rules. In the Rules as well as advertisement, it is specifically provided that candidate must possess 2nd Division in Graduation. Higher degree cannot be considered.

(iii) In CWP Nos. 11657 and 3371 of 2022, the petitioners were possessing experience of Bar. They are not even claiming that they were possessing requisite experience on the date of filing application form.

16. The respondent, during the course of hearing, produced degree and marks sheet of Hiteshwar Kumar Yadav issued by University of Rajasthan. As per marks sheet and degree, the candidate has secured 2nd Division though marks are less than 50%. In the advertisement and Rules, requirement is 2nd Division. Mr. Mahajan, Sr. Advocate has confirmed that aforesaid University awards Degree in 2nd Division, if student secures minimum 48% marks though other Universities consider minimum 50% marks for 2nd Division. To avoid the discrimination, the respondent should prescribe marks instead of Division. In

2025:PHHC:029769



the instant case, expression 'Degree' has been used so respondent is bound to accept mandate of University irrespective of marks.

17. In the wake of above discussion and findings, this Court is of the considered opinion that instant petitions deserve to be dismissed and accordingly dismissed.

18. Pending application(s) also stand disposed of.

03.03.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	Yes