

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

2025:PHHC:065327



(249)

CWP-11043-2023

Date of Decision: 15.05.2025

Ishu Jindal

--Petitioner

Versus

Punjab State Power Corporation Ltd. & others

--Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA.

Present:- Mr. Deepak Gupta, Advocate for the petitioner.

Ms. Diya Sodhi, Advocate with
Mr. Sehajbir Singh, Advocate for respondents.

DEEPINDER SINGH NALWA.J (Oral)

1. In the present writ petition, the petitioner has challenged the order dated 01.02.2023 passed by the respondent authorities, vide which the request of the petitioner for consideration of his case for appointment on the post of Clerk (non-technical) was rejected by the respondents.

2. Brief facts of the case are that the respondent-Corporation advertised the posts of Clerk (non-technical) along with other posts vide advertisement dated 21.05.2021 (Annexure P-1). In the said advertisement total posts of clerks were 549, out of which 6 posts were reserved for persons with disability of visually handicapped (VH). In pursuance to the above advertisement, petitioner applied for the post of Clerk (non-technical) under the category of persons with disability being 100% Visually Handicapped. Written examination was held by the respondent-Corporation and petitioner duly qualified the same and was in the merit list. The Corporation informed the petitioner on 25.11.2022 that he should

appear before the Committee for the purpose of scrutiny/checking of documents on 29.11.2022 through email on the email address mentioned by the petitioner in the application form. In spite of the fact, the petitioner was informed through email, petitioner never appeared before the Committee for the purpose of scrutiny/checking of documents. The respondent-Corporation again informed the petitioner through email again that the checking of documents will be held on 05.12.2022. Petitioner did not appear on the above said date also. The result was declared by the respondent-Corporation on 07.02.2023. As per the result, the petitioner's name did not figure in the select panel. As a consequence of the above, petitioner submitted a representation dated 07.12.2022 (Annexure P-5) to the respondent-Corporation for consideration of his case for the appointment to the post in question as he was entitled for appointment, as per his due merit. It was mentioned in the representation that in fact petitioner did not receive any intimation with regard to his scrutiny/checking of documents due to inadvertently wrong email address provided by him, as such, petitioner could not appear on the dates fixed for the purpose of checking of the documents. The representation submitted by the petitioner was duly considered by the respondent-Corporation and vide order dated 01.02.2023 (Annexure P-6), the claim made by the petitioner for consideration of his case for appointment to the post of Clerk, was rejected. A perusal of the order dated 01.02.2023 (Annexure P-6), passed by the respondent-Corporation would show that as the petitioner did not appear on the first and second date fixed for checking of documents. As such, no further chance could be given to the petitioner and therefore he cannot be considered for appointment on the post in question. A reference was also made to

clause 12 (ii) of the advertisement.

3. Aggrieved against the above said order dated 01.02.2023 (Annexure P-6), petitioner has filed the present writ petition challenging the action of the respondent-Corporation in not considering the candidature of the petitioner for appointment.

4. Learned counsel appearing on behalf of petitioner submits that the petitioner is 100% visually handicapped. It is submitted that while filling up online application, inadvertently the owner of the Internet Cafe, gave his own email address instead of the petitioner's email address. This was the reason that the petitioner could not appear before the Committee for the purpose of checking of documents on the dates fixed by the respondent-Corporation.

5. Learned counsel for the respondent-Corporation submits that as per the application form submitted by the petitioner, he was informed through the email as furnished by him in his application in regard to the dates fixed for the purpose of checking of documents. As the petitioner did not appear on the dates fixed, the case of the petitioner can not be considered for appointment on the post in question.

6. It has been submitted by learned counsel for the respondent-Corporation that during the pendency of the present writ petition, one post of Clerk (non-technical) was kept reserved for the petitioner. It is also brought to the notice of the Court that as per the merit list, the petitioner is within the zone of consideration as his name figures at Sr. No.4 in the select panel for 6 posts advertised by the Corporation reserved for persons with disability being Visually Handicapped (VH).

7. I have heard learned counsel for the parties at length and have gone through the records carefully.

8. Reliance has been placed upon the judgement passed by a Division Bench of this Court in **LPA-320-2019** titled as **Haryana Staff Selection Commission through its Secretary Vs. Sarla and others**, wherein it was held that while utilising the facilities of the cyber cafe to submit the application form, if, a candidate has accidentally selected the wrong category and could not correct the error, the candidate would be entitled for consideration for appointment. The relevant para of the aforementioned judgement reads as under:-

“3. Learned Single Judge called for the result in a sealed cover and found that the last candidate of EBPB category secured 102 marks whereas the respondent-petitioner had secured 106 marks and she was also provisionally interviewed under the interim orders dated 12.07.2017 passed by the Writ Court and as the mistake occurred on account of human error the writ petition was allowed.

4. The case set up by the respondent-petitioner was that as soon as the mistake committed in filling up online form came to her knowledge she immediately made a representation dated 27.04.2017 before respondent No.2 requesting for necessary correction in the application form. She was assured that at the time of verification of the documents she will be allowed to carry out necessary corrections and was permitted to appear in the written test. However, subsequently when she appeared for verification of documents on 03.07.2017 she was not allowed to participate in the interview and her candidature was cancelled.

5. We cannot loose sight of the fact that in view of the prevailing socioeconomic condition in our country, every citizen is neither net savvy nor has a computer or laptop

readily available for use. In these circumstances, when such a candidate has to submit an application on-line he has to dependent upon the cyber cafés providing the net services. Being himself/herself not computer and net savvy the candidate has to depend upon the operator in the cyber café to fill in online form and in such a circumstance if any mistake occurs it would be wholly unrealistic and arbitrary to make such a candidate suffer. It is also to be taken note of that if an incorrect entry is made due to human error, there is no provision on the website of the Commission allowing correction in the online application form. In these circumstances, if a mistake is committed, there being no provision for carrying out correction, even if it is noticed subsequently, a poor candidate is to suffer for no fault.

6. *In the case in hand, the respondent-petitioner is a poor widow lady and is resident of village Karora, District Kaithal, where she was working as an Anganwari Worker. It is pleaded in the writ petition that online application form was submitted by her through computer centre in the village. In view of the aforesaid facts and circumstances we find no illegality in the view taken by the learned Single Judge allowing the claim of the respondent-petitioner.*

9. Reliance has also been placed upon a judgement passed by the Hon'ble Supreme Court in case of **Vashist Narayan Kumar v. State of Bihar, 2024 (3) SLR 507**. In the above said case, date of birth was inadvertently wrongly mentioned by the candidate. It was held that if the application form contains a genuine and bonafide mistake penalizing the candidate would be unjust. The error in the application is trivial which did not play any part in the selection process. The State was not justified in making mountain of this molehill perhaps the rarefied atmosphere of the cyber cafe got the better of the appellant. The relevant extract of the judgement is reproduced hereunder:-

“19. In this case, the appellant has participated in the selection process and cleared all the stages successfully. The error in the application is trivial which did not play any part in the selection process. The State was not justified in making a mountain out of this molehill. Perhaps the rarefied atmosphere of the cybercafe, got the better of the appellant. He omitted to notice the error and even failed to avail the corrective mechanism offered. In the instant case, we cannot turn a Nelson's eye to the ground realities that existed. In the order dated 22.11.2021 in C.A. No.6983 of 2021 (Prince Jaibir Singh v. Union of India & Ors.), this Court rightly observed that though technology is a great enabler, there is at the same time, a digital divide.”

10. A perusal of the facts of the case records would show that it is an admitted fact that the respondent-Corporation had duly informed the petitioner on the email address furnished by him in the online application form submitted by him as regards to the dates fixed for the purpose of checking of documents. It is also an admitted fact that the petitioner is 100% visually handicapped. A perusal of the facts of the case would also show that the petitioner is otherwise eligible and is higher in merit and one post was kept vacant. No benefit could have been derived by the petitioner in mentioning wrong email address.

11. In view of the above, taking into consideration the facts of the case and above referred pronouncements, this Court is of the considered opinion that present writ petition deserves to be allowed. The impugned order dated 01.02.2023 is hereby quashed. The respondent-Corporation is directed to consider the case of petitioner for appointment on notional basis w.e.f. the date similarly situated persons were appointed on the post in question, within a period of 4 weeks from the date of receipt of a certified

copy of this order. However, petitioner will not be entitled to any back wages.

12. Petition is allowed in the aforesaid terms.

15.05.2025
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(DEEPINDER SINGH NALWA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No