

**CWP-18762-2018****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****203****CWP-18762-2018****Date of Decision: 07.03.2025****Shruti Jain****...Petitioner****Versus****State of Haryana and others****...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: - Mr. Shailendra Jain, Senior Advocate with
Mr. Munish Kumar, Advocate and
Mr. Karan Nehra, Advocate, Advocate for the petitioner
Ms. Palika Monga, Deputy Advocate General, Haryana
Dr. Neha Awasthi, Advocate for respondent No.2
Mr. Udit Garg, Advocate for respondent No.3
Mr. Deepak Girotra, Advocate and
Ms. Nirmala Jangra, Advocate for respondent Nos.4, 6 & 7

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of selection of respondent Nos.4 to 7. She is further seeking direction to official respondent to appoint her on the post of Accounts Officer with Uttar Haryana Bijli Vitran Nigam Limited.

2. The petitioner, pursuant to Advertisement No.11 dated 23.02.2016, applied for the post of Accounts Officer in Uttar Haryana Bijli Vitran Nigam Limited (for short 'UHBVNL'). In the advertisement, essential qualification for the said post was prescribed. For the ready reference, relevant clause of the advertisement is reproduced as below: -



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“Essential Qualifications (for the post of Accounts Officer in UHBVNL (Cat. No.2):

(i) Person having degree in Chartered Accountant (CA) with 2 years experience in supervisory capacity after passing CA examination.

OR

Institution of Cost & Works Accountants (ICWA) with 4 years experience in Supervisory capacity after passing the ICWA examination.

(ii) Must have passed Hindi/Sanskrit up to Matric Standard or same subject having qualification in higher degree.”

3. In the advertisement, it was specifically mentioned that online applications can be filed upto 25.03.2016 by using Commission’s website after which the link will be disabled. In the advertisement, nowhere it was prescribed that there would be marks for publication. The petitioner has five publications, however, she did not disclose her publications in the application form because there was no column in the application form. The respondent issued interview letter to 65 candidates, however, 45 appeared. The candidates were called for interview through call letter. Call letter dated 28.02.2018 issued to the petitioner is reproduced as below:-

“From
Secretary,
Haryana Public Service Commission,
Panchkula (Haryana)
To,
Shruti Jain D/o Anil Kumar Jain

Roll No.126

No.RG 51/2015/20337

Dated: 28.2.18



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Subject: Recruitment to the 04 posts of Account Officer in UHBVNL, Advt. No. 11(2)/2015.

Memo,

Reference your application for the above cited subject.

2. You are directed to appear before the Commission for interview on 9/3/18 at 09:30 A.M. sharp in Commission's office at Panchkula.

3. You are further directed to bring all the original certificates at the time of interview in support of your claim regarding age, qualifications, date of birth, experience etc. and also to submit attested copies of the following documents at the time of interview:-

- i. Matriculation certificate or equivalent academic qualification certificate indicating date of birth.*
- ii. Proof of Hindi/Sanskrit upto Matric or Higher Education.*
- iii. Mark sheet of 10th, 10+2 B.Sc./M.Sc. (consolidated required).*
- iv. Degree/certificate of CA/ICWA before the closing date 25.03.2016.*
- v. Experience certificate after passing CA/ICWA in supervising capacity.*
- vi. No objection certificate from the appointing authority in case you are serving in a Govt./semi Govt. organization under any state Govt. or Govt. of India otherwise you will not be interviewed.*
- vii. Certificate of belonging to SC of Haryana from parental side (in case of women).*



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- viii. *Domicile of Haryana required.*
- ix. *Unsigned application, signed at the time of interview.*
- x. _____
- xi. _____
- xii. _____

Note: 1. The marks will be awarded for only those certificates/documents etc. which are produced at the time of interview. These documents should have been issued on or before closing date i.e. 25.03.2016.

- 2. Mere issue of the letter requiring the candidate to appear for interview does not create any irrevocable right to the candidate. This letter is being issued provisionally subject to the condition that the candidate will have to fulfilling all the eligibility condition as per advertisement.*
- 3. No TA/DA will be paid by the Commission for attending the interview and the date fixed for interview will not be changed.*

*Sd/-
Superintendent
for Secretary”*

4. The petitioner, pursuant to aforesaid letter, appeared for interview on 09.03.2018. At the time of interview, she was supplied copy of a pre-printed form. She was asked to fill up the said form. In the said form, there was column titled as ‘*Publication*’. The petitioner filled up all the columns of the aforesaid form. She did not disclose her publications though she was having five. Form (scanned copy) submitted at the time of interview

is reproduced as below: -



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SUBJECT: Accounts officer in C.B.V.N.L.

Post:-Accounts Officer (Class-II) in Uttar Haryana Bijli Vitran Nigam Ltd., Haryana

Name	Roll No.	Category
SHRUTI JAIN	126	GENERAL

Sr. No.	Educational Qualifications/ Experience/ Achievements	Marks/Percentage	Remarks	
1	Metric	371/500 = 74.2%		10
2	Intermediate - (10+2)	404/500 = 80.8%		10
3	Graduation (B.Com)	1327/1800 = 73.7%		10
4	Consistency	60% and above in two		10
5	Master Degree in Commerce (M.Com)	1883/2600 = 72.4%		05
6	CA & CWA	444/800 = 55.5%		03
7	MBA (Finance)/LLB	-		-
8	LUM	-		-
9	Publication	-		-
10	Experience	Approx 08 years (From Jan-8-2013 to now)		-
11	Sports	(Exp of Two years fight freestyle)		-
	Participation at International Sports Event in a sports recognized by Indian Olympic Association	-		-
	Participation at Asiad Sports Event in a sports recognized by Indian Olympic Association	-		-
	Participation at Olympic Sports Event in a sports recognized by Indian Olympic Association	-		-
12	Co-curricular Activities NCC Certificate - Details thereof (Youth Festival)	Got Prize in Cok. Desig in 2nd Youth festival		-

Total = 48 (forty eight)

Signature of Candidate

True Photo Copy

Advocate

Verified by Assistant/ Supdt.

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5. The respondent declared final result on 09.03.2018. The name of petitioner figured at Serial No.4. There were three vacancies meant for General Category, thus, petitioner was not recommended. Out of three selected candidates, two have joined still she was not called because there was no waiting list.

6. Mr. Shailendra Jain, Senior Advocate submits that advertisement was issued on 23.02.2016 and last date for filing application was 25.03.2016. The respondent, on 10.01.2018, decided to allocate 10 marks for publication. The call letter was issued on 28.02.2018 and in the said letter, nothing was disclosed about marks of publication. The interview was conducted on 09.03.2018 and at that point of time, the candidates were asked to disclose about their publication. The result was declared on 22.03.2018 and respondent Commission on 10.04.2018 uploaded criteria of marks on its website meaning thereby the candidates for the first time on 10.04.2018 came to know that there were marks for publication. The petitioner was having 5 publications, thus, she was entitled to 10 marks for publications. Had she been informed well in time about marks of publication, she must have carried her publications as well as disclosed in the form submitted at the time of interview. The act of respondent amounts to change of rules of game after commencement of the game. Supreme Court in *K. Manjusree v. State of Andhra Pradesh and another*, (2008) 3 SCC 512 as well as *Tej Prakash Pathak and others v. Rajasthan High Court and others*, 2024 SCC OnLine SC 3184 has clearly held that eligibility criteria cannot be altered after commencement of selection process. The act of respondent amounts to change of criteria which was not permissible by law. This Court vide judgment dated 15.11.2016 passed in *Satish Kumar*



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Malik and others v. State of Haryana and others, CWP No.22746 of 2016

and judgment dated 03.07.2023 passed in ***Harvinder Singh v. State of Punjab and others, CWP No.17436 of 2013*** has also held that candidates should be aware of eligibility criteria so that best of candidates may be selected.

7. Short reply by way of affidavit dated 10.01.2025 of Mr. Mukesh Kumar Ahuja, Secretary, Haryana Public Service Commission on behalf of respondent No.2 is taken on record. Registry is directed to tag the same at an appropriate place.

8. *Per contra*, Dr. Neha Awasthi, Advocate submits that 65 candidates were called for interview. 45 candidates appeared for the interview. All the candidates were asked to submit a form disclosing their particulars. In the said form, there was one column with respect to publications. Not even a single candidate disclosed his/her publications. Every candidate opted to remain silent about his/her publication, thus, no candidate was awarded marks for publication. It is factually correct that in the advertisement as well as call letter, there was no disclosure about marks of publication. The criteria with respect to marks of publication & sports was chalked out on 10.01.2018 and it was uploaded after declaration of result.

9. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

10. From the perusal of record, it is evident that in the advertisement, essential qualification to participate in the selection process was prescribed. The requisite qualification was degree of Chartered

Accountant with two years experience in supervisory capacity after passing



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CA examination or degree of ICWA with four years experience in supervisory capacity after passing ICWA examination. The bifurcation of marks was not disclosed in the advertisement. There was no written test and selection was based upon qualification, experience & interview. The respondent on 10.01.2018 laid down criteria for assessing the relative merit of the candidates. 80 marks were ear-marked for academic qualifications & personal achievements which included 10 marks for publication, 5 for experience, 10 for sports and 2 for co-curricular activities. 20 marks were ear-marked for interview. The criteria laid down by Commission is reproduced as below: -

“Secret

Commission lay down the following criteria for assessing the relative merit of the candidates through viva-voce for selection to the post of Account Officer (Class-II) in Uttar Haryana Bijli Vitran Nigam Ltd. (Advertisement No.11/(2). Dated:- 23.02.2016

<i>Total Marks:</i>		<i>100 Marks</i>
<i>a) Academic Qualifications & Personal Achievements</i>		<i>80 Marks</i>
<i>Matric</i>	<i>50.0% to 59.99%</i>	<i>08 marks</i>
	<i>60.0% and above</i>	<i>10 marks</i>
<i>10+2</i>	<i>50.0% to 59.99%</i>	<i>08 marks</i>
	<i>60.0% and above</i>	<i>10 marks</i>
<i>Graduation</i>	<i>50.0% to 59.99%</i>	<i>08 marks</i>
	<i>60.0% and above</i>	<i>10 marks</i>
<i>Consistency</i>		<i>10 marks</i>
<i>50% and above in any two out of (Matric, 10+2 and Graduation)</i>		<i>08 Marks</i>
<i>60% and above in any two out of (Matric, 10+2 and Graduation)</i>		<i>10 Marks</i>
<i>Master's Degree in Commerce</i>	<i>Below 60%</i>	<i>03 mark</i>
	<i>60.0% and above</i>	<i>05 marks</i>
<i>CA & ICWA</i>		<i>03 marks</i>
<i>MBA (Finance)/LLB</i>		<i>02 marks</i>
<i>LLM</i>		<i>03 Marks</i>



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*Publication**10 marks*

- (i) *Research/Review Paper published in:*
- Referred Journals having 02 mark for ISBN/ISSN numbers. each paper*
- (ii) *Research Publications (Books, Chapter in books other than referred Journal Articles with (ISBN/ISSN) numbers:-*
- (a) *Text or Reference books (06/nos. of published by authors) International/National publishers with (ISBN/ISSN) numbers) marks for each Author*
- (b) *Chapters/Articles contributed to edited knowledge based volumes*
- Published by International/National publishers with (ISBN/ISSN) numbers) 02 mark for each chapter*
- (subject to maximum of 10 marks)*

*Experience**05 marks*

One mark per completed year of experience in the relevant field after acquiring the essential qualifications and required experience upto the closing date.

(subject to maximum of 05 marks.)

*Sports**10 marks*

- i) *Participation at 02 marks International sports event in a sports recognized by Indian Olympic Association*
- ii) *Participation at Asiad 05 marks sports event in a sports recognized by Indian Olympic Association*
- iii) *Participation at Olympic 10 marks sports event in a sports recognized by Indian Olympic Association*

(Subject to maximum of 05 marks in case of participation in (i) & (ii)

(Subject to maximum of 10 marks in case of



participation in (i) to (iii)

(Subject to maximum of 10 marks)

Co-curricular Activities 02 marks

i) NCC 'C' Certificate 02 marks

ii) NCC 'B' Certificate 01 marks

(Subject to maximum of 02 marks for (i) and (ii)(above)

b) Interview: 20 marks

The interview will be conducted through oral discussion and questioning which will be (illegible) touchstone to ascertain personal qualities i.e. knowledge, awareness, intelligence, outlook towards (illegible) & national issues, Poise bearing, expression, articulation, ethics & values, presentation, alertness, behavior, decision making & other related qualities.”

11. Neither in the advertisement nor in the call letter the aforesaid criteria was disclosed. At the stage of interview, the candidates were asked to disclose their particulars by filling a pre-printed proforma. The candidates were asked to disclose about their publications, experience, sports, co-curricular activities besides educational qualifications. The petitioner filled said form in her own handwriting. She did not disclose her publications though she disclosed her experience as well as details of co-curricular activities. She did not disclose her achievement in sports. As per affidavit filed by respondent-Commission, not even single candidate disclosed his/her publication, thus, none was awarded marks under the said head.

12. A three judge Bench of Apex Court in ***K. Manjusree (supra)*** 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**.*

XXXX

XXXX

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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.”

13. 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 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. The petitioner is claiming that respondent by prescribing marks for publication has changed rules of game after commencement of the game. From the reading of advertisement, it is evident that respondent prescribed essential qualification, however, did not prescribe criteria for determining relative merit of the candidates. Every applicant was required to be member of either Institute of Chartered Accountants of India (ICAI) or Institute of Cost and Works Accountants of India (ICWA). The only difference between CA and ICWA was that CA was required to have experience of two years whereas ICWA was required to have experience of four years. The respondent laid down criteria for assessing the relative merit of the candidates. The said criteria was not disclosed to candidates though in the

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interest of fairness and transparency could be disclosed. The respondent earmarked marks for publication, sports and co-curricular activities which may or may not be possessed by a CA/ICWA. The respondent in the call letter also did not disclose criteria for assessment. The respondent at the time of interview asked candidates to disclose their particulars. The form which was handed over to the candidates was having column of sports, publication and co-curricular activities. The petitioner is feeling aggrieved from marks of publication. The petitioner claims that had she been made aware of marks of publication, she must have brought her publications and claimed marks in the form submitted at the time of interview. She, at the time of interview, was supplied a preprinted form wherein there was column with respect to sports and publication. She was unaware of marks of publication and casually did not disclose her publications. Had she been aware of marks of publication, she must have disclosed her publications.

The respondent-Commission no doubt in the interest of transparency and fairness could disclose criteria of assessment, however, it was not mandatory because in every interview, the interview board is not required to disclose criteria of assessment. In the advertisement, criteria of assessment was not prescribed. The respondent only prescribed minimum qualification to participate in the selection process. Though, assessment criteria neither was jotted down in the advertisement nor in the call letter, yet the petitioner cannot claim discrimination because criteria was not disclosed to any candidate which is evident from the fact that not a single candidate claimed marks of publication. In the advertisement, there was no discussion about sports, however, 10 marks were prescribed for sports. All the applicants were either CA or ICWA, thus, possibility to have achievement in



sports was minimal still marks for sports were ear-marked. Nevertheless, there could be though very few candidates who had achievement in sports. They could also claim that marks for sports were not disclosed in the advertisement or call letter and they, at the time of interview, were asked to disclose their particulars of achievement in sports.

15. The respondent asked the candidates to disclose their publication and achievement in sports. The petitioner herself filled the aforesaid form. She did not disclose her publication by way of incorporating 'yes' in the column of publication. The petitioner is a Chartered Accountant, thus, cannot feign ignorance qua said column. She could say 'yes' in the column of Publication. She was not required to have certificate/copy of publications. In that situation, she was very well entitled to marks for publications. In the absence of claim, she cannot be awarded marks on the ground that she was unaware before date of interview. The same thing may be claimed by a candidate who was possessing achievement in sports.

16. A five Judge Bench of Supreme Court in ***Sivanandan C.T. and Others v. High Court of Kerala and Others, 2023 SCC OnLine SC 994*** though held that appointment of judicial officers by Kerala High Court was bad in law, however, did not disturb appointment on the ground that already appointed officers have already served for nearly six years and gained experience. It would deprive the State and its citizens the benefit of experienced judicial officers. The relevant extracts of the judgment read as:

"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.”

17. From the obtained facts, it is evident that respondent-

Commission did not disclose criteria of assessment in the advertisement or

call letter, however, it was prepared secretly and used in the interview. No discrimination was made between similarly situated persons. It is not case of the petitioner that selected candidates were either aware of criteria or were granted marks of publication. In such circumstances, it is difficult to hold that respondent-Commission after commencement of selection process has changed rules of game which caused prejudice to the petitioner. There was no discrimination. All the similarly situated candidates were treated equally. Had any candidate been granted marks of publication, this Court could consider claim of the petitioner despite her non-lodging claim in the form submitted at the time of interview.

18. In the wake of above discussion & findings and judgments of Supreme Court, this Court is of the considered opinion that present petition being bereft of merit deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

07.03.2025
Mohit Kumar

Whether speaking/reasoned	Yes
Whether reportable	Yes