

2025:PHHC:032294



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

215

**CWP-22529-2019
Date of Decision: 04.03.2025**

DEEPAK BHATT

... Petitioner

VERSUS

UNION OF INDIA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Petitioner in person.

Mr. Anil Chawla, Sr. Panel Counsel
for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

Raising a challenge primarily to the appointment of respondent No.4 namely Pramod Kumar Dubey, the instant writ petition been filed. A further prayer has been made by the petitioner for directing respondent No.3 to award marks to the petitioner for Questions No.1, 16 and 25 for their correct answers and consequently, directing respondent No.2 to offer appointment to the petitioner.

Petitioner in person submits that the respondent-Indian Institute of Technology (Ropar) had advertised three posts of Jr. Superintendent Group-B vide Advertisement No.86 of 2017. Two of the said posts were for unreserved category while one post was kept reserved for 'Other Backward Classes'. The last date for submission of the online application was 28.04.2017. Being fully eligible and fulfilling all essential qualifications prescribed thereunder, the petitioner submitted his application. A written examination was conducted by

the respondent-Indian Institute of Technology (Ropar) comprising of 30 objective type questions while one question was subjective type. One mark each was assigned to the objective type questions while ten marks were assigned to the subjective type question. The petitioner appeared in the written examination under Roll No.25. The result of the written examination was declared on the notice board as per which the petitioner had secured 60 marks out of 100. A total of 29 candidates appeared in the said examination. Selection Committee recommended to call those candidates who had scored 60 marks and above, consequently, out of the said 29 candidates, only three candidates including the present petitioner were called for computer test/trade test that was held on the same day i.e. 07.05.2018 at 3.15 pm. He contends that after the computer test/trade test had been held on 07.05.2018, the petitioner continuously visited the official website of the respondent-Indian Institute of Technology (Ropar) time and again to know about the final result, however, he was informed that as and when the final result shall be declared, he would be apprised of the same. Eventually, the petitioner submitted an application on 05.02.2019 under the Right to Information Act, 2005, wherein answer key for the post of Jr. Superintendent Group-B and final result, after computer test/trade test, for the said post were sought. In response thereto, the answer key was supplied, however, the result sheet of the successful candidates was denied on the ground that the information pertained to third party. On acquiring further information, the instant writ petition has been filed on the ground that respondent No.4- Pramod Kumar Dubey, Jr. Superintendent was not eligible as on the last date of submission of the application form, being beyond the maximum age limit of 35 years, and hence, his candidature could not have been considered by the

respondent-Indian Institute of Technology (Ropar). Since the final marks secured by the petitioner were equal to the marks secured by Pramod Kumar Dubey-respondent No.4, hence, he ought to have been offered appointment against the said post. Attention of this Court is drawn to the relevant Clause of the Advertisement issued by the respondent-Indian Institute of Technology (Ropar) available on page 70 of the paper book. The same reads thus: -

Code No.	Name of Post	Pay Band & Grade Pay	No. of Posts/ Category	Group	Requisite qualifications/experience(s).
7	Junior Superintendent	PB-2 (9300-34800) GP- Rs.4200/-	02-UR, 01-OBC	‘B’	Essential: i) Master Degree in any discipline from recognized university with at least 55% marks in qualifying degree with 01 year experience as Sr. Assistant or equivalent in the Grade Pay of Rs.2800/- in Central Govt./ State Govt. / Autonomous Bodies / Public Sector Undertakings. OR Bachelor’s Degree in any discipline from recognized university with at least 55% marks in qualifying degree with 03 years experience as Sr. Assistant or equivalent in the Grade Pay of Rs.2800/- in Central Govt. / State Govt. / Autonomous Bodies / Public Sector Undertakings. ii) Proficiency in the use of variety of computer office applications, M.S. Word, Excel, Powerpoint or equivalent is a must. Desirable: Higher Degree / PG Diploma in relevant discipline like H.R., Labour Laws, Financial Management, inter ICWA/CA ec. From recognized University. <u>Age Limit: Preferably below 35 years.</u>

He further refers to the general instructions that had been published by the respondent-Indian Institute of Technology (Ropar). Clause 7 pertaining to relaxation of age and percentage thereof reads thus:

“7. Relaxation of Age & Percentage

- i) The maximum prescribed age for each post shall be the same as given against each post in the Recruitment Rules of the Institute. The age shall be determined as on the last date of the advertisement.
- ii) Age is relaxable for five years for SC/ST candidates and three years for OBC candidates. Candidates belonging to other eligible categories shall have relaxation as per Gol norms.
- iii) *For direct recruitment posts, the upper age limit shall be relaxable up to five years in respect of the persons working in IIT Ropar on the posts which are in the same line or allied (Contract) cadres and where a relationship could be established that services rendered will be useful for efficient discharge of the duties in other categories of posts. The age concession shall be admissible only where an employee has rendered not less than three years continuous service. The candidates belonging to SC/ST categories shall have relaxation in age for additional five years.*
- iv) *For regular employees of IITs who are educationally qualified can be considered for direct recruitment across the whole IIT system up to a maximum of 50 years of age.*
- v) *For the existing regular employees of IIT Ropar to be considered for promotion (as per numbers of posts, fixed/decided for them) the %age of marks in qualifying degree may not be insisted upon.”*

The petitioner contends that respondent No.4-Pramod Kumar Dubey was 38 years 10 months old as on the last date of submission of the

application form and the prescription was that a person should preferably not exceed 35 years, hence, respondent No.4-Pramod Kumar Dubey was clearly over age. The respondent-Indian Institute of Technology (Ropar) has nonetheless considered an ineligible person who was incompetent to participate in the selection process, and despite the petitioner scoring equal marks, a relaxation was granted to the older person yet again by giving him preference in issuing appointment letter. Hence, the benefit of age relaxation has been granted twice over to respondent No.4-Pramod Kumar Dubey.

On the issue of awarding of marks, the petitioner contends that so far as Question No.1 is concerned, the plain reading of the question shows that it required extensive calculation and that he had sought instructions from the invigilator as to till what decimal place the answer has to be given and what value of the pi (π) is to be used. He was informed by the invigilator that the evaluation shall be done on the basis of value of pi (π) which gives the nearest correct answer and that it may not be accurate. He further submits that Question No.6 as an illustration called for three Gurudwaras of historical importance located near Ropar and that even though the petitioner gave all incorrect answers, however, the respondents have granted 1/3rd mark per each correct answer, which could not have been done as only one mark could have been awarded if the entire answer was correct and if any component of the answer was incorrect, zero marks ought to have been awarded. There could be no further sub-marking for each correct/incorrect response.

A reference is also made to questions No.16 and 25. Respondent-Institute is alleged to have marked the wrong option as the correct answer for question No.16. In question No.25, the names of the Engineering Departments

of Indian Institute of Technology (Ropar) were to be given. The petitioner has mentioned the generic name of the engineering stream and not the name of the department. He thus contends that he has not been fairly awarded the marks for the said questions.

He thus submits that the respondents have not only considered an ineligible candidate but have also not given correct marks for the answers given by the petitioner. Despite the same, the petitioner was at par with the private respondent. On giving him due benefit, he would rank higher than the private respondent, hence, the writ petition would deserve to be allowed and the petitioner becomes entitled to be issued appointment.

Responding to the above, counsel for the respondent-Indian Institute of Technology (Ropar) contends that the argument as regards age relaxation advanced by the petitioner is misconceived inasmuch as the Advertisement uses the expression that "the maximum age limit is required to be preferably below 35 years." Further, as per Clause 7(ii) of the General Instructions to the Advertisement, it is specifically mentioned therein that w.r.t. the candidates belonging to other eligible categories, the relaxation shall be as per Government of India Norms. He submits that respondent No.4-Pramod Kumar Dubey was an ex-serviceman having served nearly 20 years towards military service. Reference is made to the notification dated 04.10.2012 issued by the Ministry of Personnel, Public Grievances and Pensions whereby Rule 5 of Ex-Servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979 has been substituted. The same is extracted as under: -

“5(a) For appointment to vacancies in Group B (Non-Gazetted), Group C or Group D posts in Central Government, an ex-serviceman shall be allowed to deduct the period of actual

military service from his actual age and if the resultant age does not exceed the maximum age limit prescribed for the post for which he is seeking appointment by more than three years, he shall be deemed to satisfy the condition regarding age limit.

XXX XXX XXX”

Referring to the above, he submits that for appointment to vacancies in Group-B (Non-Gazetted), Group-C and Group-D cadre in Central Government, an ex-serviceman is allowed to claim deduction of the period of actual military service rendered by him, from his current age, and if the resultant age does not exceed the maximum age limit prescribed for the post for which he is seeking appointment by more than three years, he is deemed to satisfy the condition regarding age limit. It is submitted that on the abovesaid being extended to respondent No.4-Pramod Kumar Dubey, he was much below 35 years of age. Hence, he was not ineligible as on the last date of submission of the application form or on the date of consideration. It is also submitted by the counsel for respondent-Indian Institute of Technology (Ropar) that the Government of India had issued the first statute of Indian Institute of Technology (Ropar) in exercise of the powers conferred under Section 26 read with Section 27 of the Institutes of Technology Act, 1961 on 31.07.2017. As per Clause 17(4), a similar provision was incorporated in the Act itself that while making appointments for various reserved categories, the Selection Board/Committee is required to follow the orders and instructions issued by the Government of India from time to time. The relevant extract thereof reads thus:-

“17. Appointment and procedure for appointment.

XXX XXX XXX

(4) While making appointments, for various reserved categories, the Board shall follow the orders and instructions issued by the Central Government from time to time in this regard.”

He further submits that a similar applicability of the Rules notified by the Government of India also finds mention under Clause 29 of the Schedule-C under Statute 19(3). Hence, the instructions issued by the Government of India, as regards relaxation of age and consideration of eligibility, became applicable to the appointments to be made to the Indian Institute of Technology (Ropar). Counsel further argues that since the petitioner as well as respondent No.4-Pramod Kumar Dubey had secured same marks, hence, as per the procedure followed by the Union Public Service Commission to resolve a tie where a person older in age is offered appointment, respondent No.4-Pramod Kumar Dubey being older than the petitioner, was rightly offered the appointment. He refers to the affidavit filed by the officiating Registrar of Indian Institute of Technology (Ropar) in compliance to the order passed by this Court on 21.01.2025. The relevant extract of the same reads thus: -

“3. That in compliance with the above orders dated 21.01.2025, it is submitted that the RTI information was sought from the UPSC and same was received and as per information received, in case of Tie of candidates having equal marks, the candidates senior in age is to be ranked higher. Since the respondent no. 4 and 5 were Ex Serviceman and respondent no.4 has done 20 years of military service and respondent no.5 has done 19 years of military service and age of respondent no.4 is 38 years 10 months and age of respondent no.5 is 38 years 2 months on the closing date of recruitment advertisement. So after deducting the number of years of military service, the age is less than 35 years for both respondent no.4 and 5 so they were ranked higher for selection due

*to senior in age and offered appointments. The copy of the RTI reply dated 27.02.2025 along with the formula of tie breaking is annexed as **Annexure R-1/5**. The copy of the Notification dated 20.06.2012 of The Institutes Technology (Amendment) Act, 2007 is annexed as **Annexure R-1/6**.”*

It is thus contended that the selection of respondent No.4-Pramod Kumar Dubey and his subsequent appointment was not due to extending any undue marks or benefit to the said candidate, rather and it was done as per the established procedures and norms being followed by the UPSC/Government of India for resolution of such a dispute on tie-breaking. The Relevant extract of the information so received from the UPSC reads thus: -

- “2. Wherever two or more candidates have secured equal aggregate marks in CSE Exam, 2018, the tie(s) have been resolved in accordance with the principles approved by the Commission, viz.*
- (i) Candidate securing more marks in the Compulsory Papers and the Personality Test put together is to be ranked higher;*
 - (ii) In case where the marks mentioned at (i) above are equal, the candidate senior in age is to be ranked higher; and*
 - (iii) In case where the (i) and (ii) above are same, then the candidate getting more marks in compulsory papers is to be ranked higher.”*

Adverting to the argument of the petitioner that the marks have not been properly awarded to the petitioner, the counsel for the respondent-Indian Institute of Technology (Ropar) submits that the said aspect had been considered by the Indian Institute of Technology (Ropar) and the claim as well as the objections raised by the petitioner were decided as under: -

POINT NO. OF WRIT	Brief			REPLY
Question No.01	Mr.	Deepak	Bhatt	The answer to question

Q.1 The area of an Institute is 250 hectares. Assuming a circular shape, calculate the length of the boundary wall in KM. (Hint: 1 Hectare =10⁴m²)	claimed that marks for the question no.1 should be awarded to him as the question involved intense calculation and he wrote nearest possible answer. Answer as per answer key: 5.604 Answer of Mr. Deepak Bhatt: 5.53	no.01 given by Mr. Bhatt was not correct as per the given answer key. Accordingly, he was awarded zero for the question
Question No.16 Q.16: Fiscal policy in India is formulated by: (A) SEBI (B) RBI (C) NITI Aayog (D) Finance Ministry	Mr. Deepak Bhatt stated that on receiving the answer key for the written test for the post of Junior Superintendent he found that the answer marked by him (Option-D) i.e. Finance Ministry is correct and the answer given in the answer key (i.e. Option B) is incorrect.	On examining the representation of Mr. Bhatt the Institute found out that option D is the correct answer and hence, awarded one mark to Mr. Bhatt which made him equal to Mr. Dubey and hence both became equal in marks i.e. 62.5' There was tie in marks of Mr. Dubey and Mr. Bhatt and as per the tie breaking formula adopted by the Institute taking into the reference of UPSC, the candidate senior in age (Date of Birth) will be ranked higher in the merit. The

		date of birth of Sh. Pramod Kumar Dubey and Sh. Deepak Bhatt is 17.06.1978 and 27.04.1988 respectively. Therefore, being senior in age, the appointment of Mr. Pramod Kumar Dubey as Junior Superintendent was in order and the representation of Sh. Deepak Bhatt was disposed off and filed. Further, there was no change in the status of eligibility of other candidates appeared in the written test.
Question No.25 Q.25: Name the Engineering Departments of IIT Ropar.	Mr. Bhatt claimed that he should be given some marks for partially correct answer in respect of Question no. 25. He referred that the candidates bearing roll no. 6, 8, 16, 37 & 39 have been given some marks for partial answer. Answer as per answer	The uniform criteria was adopted for awarding the marks to all the candidates for question no.25. None of the candidates had given full correct answer for question no.25 and hence no candidate was awarded any marks for this question. Accordingly, Mr. Bhatt

	key: 6 Departments (Chemical Engineering, Civil Engineering, Computer Science and Engineering, Electrical Engineering, Mechanical Engineering & Metallurgical and Materials Engineering) Answer of Mr. Deepak Bhatt: Electrical Engineering, Mechanical Engineering. CSE/IT, Chemical Engineering, Electronics)	was also awarded zero marks for this question. Also the candidates bearing roll no.6, 8, 16, 37 & 39 got zero marks for this question
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The final result sheet was prepared on the strength of the marks after including the additional mark for question No.16 that was granted to the petitioner.

He submits that the objections of the petitioner w.r.t. the evaluation and the marks being assigned had been specifically considered and dealt with by the Experts and that the marks to which the petitioner was entitled to stand(s) awarded to him. Hence, the petitioner does not suffer from any prejudice.

At this juncture, the petitioner in person contends that as per the respondents' own answer key, the names of the three departments mentioned is

the answer that has been attempted by him and as such, he was entitled to be granted one mark for the said answer.

In support of his case, the petitioner has placed reliance on the judgment of the High Court of Madhya Pradesh in the matter of '**Balbir Singh Gurjar Vs. State of Madhya Pradesh**' bearing **Writ Petition No.1059 of 2013** decided on **01.03.2023**. The relevant extract of the same is reproduced hereinafter below:

“12. Furthermore, when two candidates have scored equal marks, then their eligibility is to be considered on the basis of their age. It is not the case of the petitioner that he is older than the last selected candidate of unreserved category. Merely because the petitioner had also scored 206 marks would not mean that he had automatically become entitled for switching over from the reserved category to unreserved category. Further more, in order to claim the benefit of unreserved category, the petitioner must prove that otherwise he was entitled to compete in an unreserved category, i.e. without any relaxation which are meant for the members of reserved category. Undisputedly, the petitioner was allowed to compete in the recruitment proceedings after extending the benefit of relaxation in age. If the petitioner is permitted to be switched over to the unreserved category, then it would mean that the State will give two benefits, i.e., (1) the benefits of relaxation which were meant for reserved category and (2) the benefit of post, which was filled by the candidate of unreserved category. The petitioner cannot take the advantage of both the aspects at the same time. In order to claim the benefit of unreserved category, the petitioner must be eligible for his appointment in an unreserved category. Since the petition lacks basic averments and suffers from non-joinder of party, therefore, this Court is of the considered opinion that the respondent did not commit any mistake by appointing the

petitioner on the posts of Platoon Commandant instead of Sub-Inspector (District Police Force).”

No other argument has been raised nor any other judgment has been cited by the petitioner or by counsel for the respondents.

I have heard the petitioner in person as well as counsel for the respondent-Indian Institute of Technology (Ropar) at length and have gone through the documents appended alongwith the present petition.

Responding to the first argument as to whether the private respondent No.4-Pramod Kumar Dubey was eligible for being appointed to the said post since a preferable maximum age had been prescribed in the Advertisement by the Indian Institute of Technology (Ropar), I am of the opinion that the argument advanced by the petitioner does not hold much merit. My reasons for the same are as under:

- (i) That Clause 7 of the General Instructions of the Advertisement dealing with age relaxation and reservation specifically prescribed that the norms as notified by the Government of India would be applicable to other reserved categories. Since ex-serviceman is the other reserved category for which specific relaxation has been notified by the Government of India vide notification of 04.10.2012 that had been duly published by the Government of India granting a relaxation to an ex-serviceman by the number of years he has served in military, for assessing the age, hence, on being extended the said benefit, the age of respondent No.4-Pramod Kumar Dubey fell within the prescribed age limit.

- (ii) The insistence of the petitioner on Sub Clause (i) of Clause 7 of the General Instructions that once the preferable age has already been prescribed, hence, no other age could have been preferred or relaxation granted is not tenable since Sub Clauses (i) and (ii) pertaining to age relaxation have to be construed harmoniously and a meaningful interpretation has to be given to them. In the event Sub-Clause (i) is read in the manner as suggested by the petitioner, the relaxation as notified and referred to in Sub Clause (ii) of Clause 7 of the General Instructions would be rendered nugatory and otiose. A harmonious construction of both the clauses thus leads to an inescapable conclusion that wherever any admissible relaxations are available to a person as per the notifications/policy decision taken by the Government of India, such relaxation(s) shall be extended to such candidate.

Hence, the argument by the petitioner is based solely on an exclusive reading of one clause in isolation whereas the law is well settled that a document has to be read as a whole. Every possible attempt is required to be made by the Court to give effect to all provisions, insofar as possible. Any interpretation which deletes or negates other clauses/terms should ordinarily be avoided. The argument thus is rejected.

Adverting to the argument that respondent No.4-Pramod Kumar Dubey having already been granted the benefit of age relaxation and being treated younger than the petitioner, could not have been given the same benefit again by treating him as older at the time of offering appointment. I find that such argument is based upon losing the distinction between the eligibility and

merit. The assessment of age for determining eligibility of a person to participate in a selection process is done as per the prescribed criteria for age determination and for extending age relaxation. The same does not notionally make him younger to other competitors or entitle the candidate for re-fixation of his age at the time of advertisement. The same is only an acquisition of eligibility to compete in the process of selection. If the argument of the petitioner is to be accepted that he should be held as younger by giving him benefit of 20 years, and hence his age should be treated as 19 years, it would entitle the respondent No.4 to continue in service till the age of 78/80 years, as the case may be. The same is neither the import nor the intent of the statute. Even such an employee superannuates on the date of retirement, as prescribed under the Service Rules as computed from his original date of birth. Such cascading arguments based upon perceptions, assumptions and inceptions entertained by a candidate are not tangible and cannot be entertained in law. The status of respondent No.4-Pramod Kumar Dubey thus has to be examined by giving him benefit of age relaxation for construing eligibility and the same cannot be deemed as a reduced age, when a recommendation is to be made or appointment is to be offered, on occurrence of a tie by scoring an equal percentage of marks. The same being a standard procedure being followed by the Union Government as well as by the U.P.S.C. in all their selection processes, the adaptation of the same principle by the respondent-IIT (Ropar) in offering appointment to the private respondent cannot be held to be illegal or arbitrary. The confusion entertained by the petitioner by equating the benefit of age relaxation for eligibility with reducing the actual age is unilateral and not based on correct understanding of law. The argument thus deserves rejection.

Next adverting to the third objection raised by the petitioner for having not been given marks for Questions No.1, 16 and 25. So far as question No.1 is concerned, the Body of Experts considered the objections/submissions advanced by the petitioner and have given the correct answer to be 5.60 approximately whereas the answer given by the petitioner was 5.53. The submission of the petitioner that he had sought clarification of the invigilator is of no consequence, since the invigilator is not an evaluator. Once candidates are to be awarded marks for a correct answer, he could have claimed marks only in case his answer was correct to the nearest decimal. Undisputedly, the petitioner had not given the correct answer. No candidate can claim that he ought to be awarded marks for being closer to the correct answer as the same would amount to granting marks even for an incorrect answer. The objection has thus been rightly dismissed.

So far as question No.16 is concerned, the benefit of one mark had already been given to the petitioner while computing the final result and he equalled the score with the private respondent after having been granted benefit of one mark.

Now adverting to the question No.25 where even though the answer given by the petitioner is correct, however, in the net result, even if benefit of one mark is given to the petitioner, it would not have any overall impact on the *inter se* merit amongst the candidates. The comments as stated thereunder prescribe that all the candidates including the respondent No.4 and respondent No.5 have given similar answers and none of them had been given marks for the same although they had all attempted the question in a similar manner. Consequently, it would only take the overall merit at one score above

than the score as has been finally published, but would have no bearing on the final result so far as their *inter se* merit is concerned. There being no real prejudice that may have occurred, the argument, at the end of the day is only technical and does not make any impact on the final result.

Insofar as sub-bifurcation of marks for the questions which required giving more than one option is concerned, I am of the opinion that once all candidates have been evaluated on the basis of same criterion, merely because in the wisdom of the petitioner/candidate any other criterion ought to be adopted, the same cannot be the basis for interfering in the awarding of marks by an evaluator. The right, if any, of a candidate is only to be evaluated upon the same universal parameters and once the said parameters have been adhered to, the petitioner cannot claim to have been prejudiced in any manner.

Even on a common understanding where a question requires a candidate to name 5 places; 4 titles; 3 Gurudwaras of historical significance etc. if the evaluator grants an equated mark for each correct option, procedurally it cannot be said to be irrational or arbitrary.

This Court further notices that all the aforesaid aspects have been ruled against the petitioner and responding to the question which came up for consideration as to whether, in the event of a tie, the respondent No.4 could have been given the appointment or not, it has been held that the instructions issued by the Government of India and followed uniformly by the UPSC for offering appointment in such cases uphold the decision of respondent-IIT (Ropar). I do not find any illegality in the action of the respondent-Indian Institute of Technology (Ropar) in offering appointment to the older person/candidate.

Further, while examining the judgment in the matter of **Balbir Singh Gurjar (supra)** relied upon by the petitioner, paragraph No.12 thereof, as relied upon by the petitioner, is rather to the prejudice of the petitioner. The opening line of the said paragraph itself begins with "It is not the case of the petitioner that he is older than the last selected candidate of unreserved category." Hence, the principle of the older person being offered appointment on preferential basis as compared to younger person is a principle noticed in approval by the Madhya Pradesh High Court as well.

For the foregoing reasons, I find that the present petition lacks merit. The same is accordingly dismissed.

MARCH 04, 2025.
Rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No