

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-5546-2024 (O&M)

Suman Kumari ... Petitioner

VS.

National Institute of Food Technology
Entrepreneurship and Management & Anr. ... Respondents

CWP-24450-2024 (O&M)

Sonu Kumar ... Petitioner

VS.

National Institute of Food Technology
Entrepreneurship and Management & Anr. ... Respondents

1.	Judgment reserved on	07.03.2026
2.	Judgment pronounced on	30.04.2026
3.	Judgment uploaded on	01.05.2026
4.	Whether operative or full judgment	Full
5.	Delay in pronouncement of full judgment and reasons, if any	NA

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Ms. Lavanya Paul, Advocate and
Mr. Karamveer Singh Banyana, Advocate
for the petitioner(s)

Mr. Harsh Aggarwal, Advocate
for respondents (CWP-24450-2024)
for respondents No.1 to 3 (CWP-5546-2024)

Mr. Sankalp Gehlawat, Advocate and
Mr. Saurabh Dalal, Advocate for respondent No.4
(CWP-5546-2024)

Sandeep Moudgil, J.

(1). By this order, I shall dispose of CWP-5546-2024 & CWP-24450-2024 as common issues are involved. For the purpose of order, CWP-5546-2024 is treated as the lead case, however, in view of the complexities involved in the case, the brief facts of both the cases are being noted.

(2). In CWP-5546-2024, the jurisdiction of this Court has been invoked by the petitioner-Suman Kumari under Articles 226/227 of the Constitution seeking a writ of certiorari to quash the order dated 27.02.2024 (Annexure P9) vide which her appointment as Assistant Librarian in the respondent-Institute has been cancelled by the respondents.

(3). Whereas CWP-24450-2024 has been filed by the petitioner, who is candidate in waiting list at Sr.No.1 in the said selection, praying for issuance of a writ in the nature of mandamus directing the respondents to appoint him on the post of Assistant Librarian being the next candidate in order of merit and at Sr.No.1 of the waiting list, as the appointment of the selected candidate-Suman (writ- petitioner in connected writ petition) has been cancelled vide order dated 27.02.2024 (Annexure P3).

Facts

(4). Vide Advertisement dated 09.11.2020, the respondent-Institute invited applications for various posts, including one post of Assistant Librarian (Level-10) under the Unreserved Category by way of direct recruitment, against which the petitioner submitted his application against which he was interviewed. The result of the selection process was declared on 07.09.2023 (Annexure P2), wherein one Ms. Suman Kumari was shown as selected for the post of Assistant Librarian. Ms. Suman Kumari joined the post of Assistant Librarian on 12.09.2023, however, in view of public grievance dated 20.09.2023 regarding alleged anomalies and malpractice done in the recruitment and thereafter but upon verification of her record, the respondents found that Suman Kumari did not possess the essential experience in Pay Level-6 as stipulated in the advertisement. Consequently, it was recommended

that her selection be cancelled and the post of Assistant Librarian be re-advertised. The Board of Governors, in its 5th meeting held on 17.02.2024, accepted the recommendation and resolved that the offer letter issued to Ms. Suman Kumari be cancelled and her services terminated.

(5). Aggrieved the petitioner Suman Kumari filed the writ petition i.e. CWP-5546-2024.

(6). The petitioner-Sonu, however, was placed at Serial No.1 of the Waiting List and it was specifically mentioned that the waiting list would remain valid for one year from the date of notification of the result i.e. up to 06.09.2024. Immediately upon learning of the cancellation of the appointment of the selected candidate, he submitted a detailed representation dated 28.02.2024 (Annexure P4), followed by another representation dated 17.05.2024 (Annexure P6), requesting that being at Sr.No.1 of the Waiting list, he be appointed against the said vacancy. However, the respondents, while admitting the pendency of litigation initiated by Ms. Suman Kumari, have failed to act on the petitioner's representations on the pretext that the recruitment process is sub-judice and have instead decided to re-advertise the post and process it under new Recruitment Rules (RPR-2024) approved by the Board on 22.05.2024.

(7). Hence the petitioner preferred the instant writ petition i.e. CWP-24450-2024.

Contentions of the petitioner(s)

(8). Learned counsel for the petitioner submits that the very foundation of the impugned order dated 27.02.2024 (Annexure P9) cancelling the appointment of petitioner Suman Kumari is factually and legally

misconceived, inasmuch as it proceeds on the erroneous premise that the requisite experience acquired by the petitioner is from a “non-recognised” school which is not bound by Pay Commission recommendations, whereas the advertisement merely stipulated that the candidate must possess five years’ experience in Library/Computerisation of Library in a **reputed** Educational Institute/Organization, out of which three years must be on a post in Level-6 pay scale of 35,400-1,12,400 (7th CPC), and nowhere required that such reputed institute/organisation should be a government or government-controlled body or one statutorily bound to follow Pay Commission scales.

(9). It is further urged that the respondents have further misread the clarification received from the school, which specifically states that although the society running the school is not legally bound by the Pay Commission, it has nevertheless chosen to follow the same and that the lower salary paid is only on account of its financial condition; experience for purposes of eligibility depends on the nature of duties and the pay-level post held, not on whether the employer is a government entity or able to pay the full notional scale, and the Union Government itself, vide Office Memorandum dated 07.03.1984, has recognised that for regular direct recruitment, equivalence is to be judged primarily by designation and nature of work rather than strict identity of pay scales across different institutions and in any case, the post of Assistant Librarian is a regular direct recruitment post and not one to be filled on transfer or deputation, so there is no requirement that the petitioner’s past post in the feeder institution must be “analogous” in terms of pay-scale to a post in the respondent-Institute to disqualify her on this hyper-technical and

extra-advertisement ground is ex facie arbitrary and contrary to the very terms on which applications were invited.

(10). Learned counsel for the petitioner-Sonu contends that there is no allegation by the respondents that he lacks the prescribed qualifications or experience or that his candidature is otherwise deficient, and his position in the order of merit stands admitted. He submits that the date of notification of the result in pursuance to which Dr. Suman Kumari was given appointment is 07.09.2023 and as such, the waiting list validity period of one year was to expire on 06.09.2024 and the recommendation of cancellation of appointment of Dr. Suman Kumari was accepted on 17.02.2024 i.e. within the validity period of the waiting list. He urged that being so, the petitioner, being next in order of merit, acquired a right to be considered for appointment to the said post during the subsistence of the waiting list.

(11). It is argued that where the offer of appointment issued to a candidate is liable to be cancelled and such cancellation occurs within the validity of the waiting list, the candidate next in merit accrued a legitimate right cannot be denied appointment merely because the Department failed to act with promptitude and allowed the time to lapse and as such the right to appointment in such a case accrues on the date the vacancy arises and cannot be taken away on account of subsequent delay.

Respondents counter

(12). As regards petitioner-Suman Kumari, learned counsel for the respondent-Institute contend that she did not fulfill the requisite experience in Level-6 and as such as the very purpose of prescribing “experience in Library/Computerisation of Library in a reputed Educational

Institute/Organisation, with at least three years' experience on a post in Level-6 pay scale of Rs. 35,400–1,12,400 (7th CPC) or equivalent” was to ensure that candidates had actually worked in institutions maintaining a certain standard, structure and pay regime, which could be objectively verified and in petitioner's case, upon scrutiny of the documents, it came to light that her earlier appointment in the school was on a consolidated monthly salary of Rs. 19,535/- as per appointment letter dated 01.07.2016 and that, even later, she was drawing Rs. 27,500/-, which neither corresponds to nor can be equated with Level-6 of 7th CPC.

(13). Furthermore, it is submitted that the petitioner was called upon to furnish pay slips and Income Tax Returns from the previous organisation so that her claim of having been paid against a Level-6 post could be conclusively verified, but she intentionally chose not to produce any pay slips or ITRs and merely relied on a bare certificate from the school and since the petitioner neither demonstrated that she was actually placed in Level-6 nor produced the primary documentary proof (pay slips/ITRs) despite being specifically asked, the respondents were fully justified in concluding that she did not meet the advertised benchmark and in treating the earlier grant of eligibility as an inadvertent error liable to correction and consequently cancelling her appointment.

(14). In so far as petitioner-Sonu is concerned, learned counsel for the respondents, on the basis of the averments made in the written statement did not dispute that the petitioner stood at serial No. 1 in the waiting list, however, he contends that in terms of the result notification the waiting list was valid only for a period of one year from 07.09.2023, i.e. up to 06.09.2024, and that

upon expiry of the said period the waiting list stood exhausted and no appointment can be offered therefrom. He submits that mere inclusion of a candidate's name in a waiting list does not confer any indefeasible right to appointment and that a waiting list cannot be treated as a perpetual source of recruitment inasmuch as the appointments from waiting lists are permissible only when the governing recruitment rules so provide and within the prescribed validity period.

(15). It is further averred that the committee constituted by the Board has found that due procedure and administrative protocols were not adhered to in the recruitment of Assistant Librarian and, therefore, the Board was justified in taking a policy decision to cancel the selection of Ms. Suman Kumari and to direct re-advertisement of the post, which decision, according to them, cannot be termed arbitrary or discriminatory. He then submits that Ms. Suman Kumari had challenged the cancellation order in CWP No. 5546 of 2024 and the same is pending consideration, it would not be appropriate to fill the post by appointing the petitioner, as that may give rise to conflicting claims and multiplicity of litigation.

(16). Heard learned counsel for the parties and the judgment was kept reserved on 07.03.2026.

Analysis

(17). In the first place, this Court has examined the grievance of Ms. Suman Kumari, the selected candidate whose appointment has been cancelled by the respondent-Institute on the basis of a public grievance and the report of a committee constituted by the Board of Governors. The impugned action proceeds on the findings that –

(i) she did not possess the advertised essential experience of three years on a post in Level-6 of the 7th CPC, inasmuch as her previous engagement was on a consolidated salary far below that level and she failed to furnish pay slips or income-tax returns to substantiate her claim of Level-6 pay, and

(ii) her eligibility had been inadvertently and erroneously accepted by the Screening Committee, in addition, a procedural lapse was noted in the absence of the external member's signature on the final recommendation.

(18). Only if this Court ultimately upholds the cancellation of Ms. Suman Kumari's appointment and the Board's decision to scrap the selection, will the question of any independent relief to Sonu arise, conversely, if her challenge succeeds and her appointment is revived, the foundation of Sonu's claim as Wait-listed candidate would, by necessary implication, disappear.

(19). The law is equally well settled that where the employer, faced with credible material revealing irregularities in the recruitment process, takes a bona fide policy decision to cancel the selection and start afresh, courts ordinarily refrain from compelling continuation of such a tainted or doubtful process.

(20). In the present case, the Board of Governors, upon considering the committee report and the noted lapses, has not singled out Ms. Suman Kumari for punitive treatment but has treated the recruitment itself as vitiated and resolved to re-advertise the post, thereby applying its decision uniformly. In such circumstances, even if the procedural handling of her case is not ideal, this Court is not persuaded that the decision to cancel her appointment and scrap the process is so arbitrary or perverse as to warrant interference under Article 226, and her prayer for restoration of appointment is accordingly declined.

(21). Turning to the connected claim of Sonu, who figures at serial No. 1 in the waiting list, it must be reiterated that, a candidate in a select or waiting list acquires no indefeasible or vested right to appointment, and the authority is under no legal compulsion to fill up all notified vacancies merely because a panel exists. A waiting list is not an “endless reservoir” of recruitment, that appointments from such list can be made only in terms of the governing rules and within its notified period of validity.

(22). It is true that, in the present case, the cancellation of Ms. Suman Kumari’s appointment was resolved on 17.02.2024, when the waiting list was still in force, and Sonu promptly represented for appointment as Wait-list-1, however, any limited expectation that might have arisen at that point was always subject to two conditions. Firstly, the selection itself remained intact and was not scrapped, and secondly, that the employer chose to operate the waiting list rather than restart the process. Once the Board, for reasons already upheld while dealing with Ms. Suman Kumari’s challenge, has consciously decided to treat the recruitment as vitiated and to re-advertise the post, the very foundation on which the waiting list rests stands removed and in such a situation, no enforceable right can be claimed by any candidate from that list, and petitioner-Sonu cannot, therefore, insist on a mandamus compelling appointment from a panel that flows from a process the competent authority has legitimately annulled.

(23). In view of the foregoing discussion, namely, the Board’s justified decision to cancel the selection and re-advertise the post, the limited and non-vested nature of rights flowing from a waiting list, and the pendency of the selectee’s own challenge, this Court is satisfied that no case for interference is

made out either at the instance of Ms. Suman Kumari or at the instance of Sonu. Both writ petitions are, therefore, dismissed, leaving it open to the petitioners to participate in the fresh recruitment process initiated by the respondent-Institute, if they so desire.

(24). Pending applications stand disposed of accordingly.

30.04.2026
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned? :
- 2. Whether reportable? :

Yes/No
Yes/No