



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

215 (1)

**LPA-1424-2024 (O&M)
Date of decision:10.04.2026**

ARVIND

...APPELLANT

VERSUS

HARYANA PUBLIC SERVICE COMMISSION AND OTHERS

...RESPONDENT

215 (2)

**LPA-1563-2024 (O&M)
Date of decision:10.04.2026**

KAPIL KUMAR

...APPELLANT

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr. Himanshu Arora, Advocate
for appellant in both the appeals.

Mr. Kanwal Goyal, Advocate with
Ms. Komal Klana, Advocate
for the respondent No.1.

Mr. Saurabh Mohunta, D.A.G., Haryana.

Mr. R.K. Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate
for respondent No.3 in LPA No.1424 of 2024.

Mr. Harinder Singh Sandhu, Advocate with
Ms. Gurjit Kaur Sandhu, Advocate
for respondent No.4 in LPA No.1563 of 2024.

ASHWANI KUMAR MISHRA, J. (ORAL)

Present letters patent appeals have been filed under Clause X of
the Letter Patent Act by the appellant for setting aside common judgment

dated 02.04.2024 passed by Hon'ble Single Bench of this Court in CWP No.11759 of 2018 and CWP No.12207 of 2018, whereby the writ petitions filed by the petitioner (appellant-herein) were disposed of as having been rendered infructuous. Since the dispute involved in both the appeals is identical, they are being decided by way of this common judgment. For the sake of reference, the facts, albeit briefly, are being taken from CWP No. 11759 of 2018 titled "**Arvind vs. Haryana Public Service Commission and Others.**"

2. Facts of the present case are that respondent-Haryana Public Service Commission (hereinafter referred to as '**Commission**') issued advertisement No.8 dated 08.02.2016, inviting applications for different posts, including two posts of Assistant Engineer (Mechanical) under Scheduled Caste of Haryana category in Irrigation Department. The appellant, belongs to SC category and had the requisite qualification applied for the said post. Appellant cleared the written examination and was interviewed on 05.03.2018. Final result of selection was declared on 09.03.2018, wherein the appellant having roll No.1520 was declared selected under the under the Scheduled Caste of Haryana category. Appellant was recommended for appointment to the Irrigation Department, however, before issuance of offer of appointment to the applicant, the selected candidates were asked to appear before the committee constituted for verification of documents/testimonials in the Commission on 14.03.2018, pursuant to notice, Annexure P-8. The candidates appeared for verification of their documents including the appellant. The Commission on the very next day

revised its result vide communication dated 15.03.2018, whereby earlier result of 09.03.2018 was revised and the appellant did not figure in the list of selected candidates. It was the contesting respondent No.3, who was listed in the revised result. It is in this context that the appellant approached this Court by filing CWP No.11759 of 2018.

3. Before the learned Single Judge, the Commission in its reply, specified the criteria for selection to the post as under:-

- a) *Recruitment/Short-listing test: 50 marks*
- b) *Academic qualification/Personal achievement: 30 marks*
- c) *Viva voce: 20 marks*

4. The Commission further stated that under the academic qualification, the candidates were entitled to two marks for 'Post Graduate in the relevant subject'.

5. It further transpires that the private respondent No. 3 had obtained post-graduation degree from a recognized institution in M.Tech, prior to the last date of submission of the application. The post-graduation in relevant subject, however, was not specified and therefore the Commission wrote to the State Government on 28.02.2018, requiring the Government to specify as to whether Masters in Technology (M.Tech) and Masters of Engineering (ME) were to be treated as post-graduation qualification for consideration of the advertised post. The State Government responded on 06.03.2018, clearly stating that M. Tech in Mechanical Engineering is a post-graduation degree. The interview pursuant to advertisement was held between 05.03.2018 to 09.03.2018. The Commission specifically stated that

in awarding marks, two marks were given to private respondent No.3 but while promulgating the result there was an error and those two marks were not factored, as a result of which, an incorrect result was declared and the same was modified within a week. Learned Single Judge having gone through the materials on record, rejected the contention raised on behalf of appellant by observing as under paragraph:-

“8. The undisputed position on record is, the criteria for selection entitles the candidates to award of two marks for postgraduate degree in the relevant subject. To ascertain relevance of the degrees submitted by the Candidates under different nomenclature, a clarification was sought from the Department concerned, vide letter dated 28.02.2018. A response thereto was received on 06.03.2018. Interviews for the post in question were conducted from 05 to 09.03.2018, and the petitioner was interviewed on 05.03.2018, leading to declaration of selection result on 09.03.2018, whereby he was one of the selected candidates under SC of Haryana category. Thereafter, marks obtained by the candidates were required to be uploaded on the website. Before doing that, their marks were again tallied with the record, and it was found, though the deserving candidates were awarded 2 marks for their post graduate degrees based on the clarification dated 06.03.2018, inadvertently the roll numbers which were already arranged in order of merit as per earlier marks could not be re-arranged in order of merit after adding these two additional marks for M.Tech degree. Consequently, the result was required to be revised as per merit determined by assigning two marks to the ones who were entitled, including the third respondent. On doing so, he secured more marks than those of the petitioner, and became eligible to be recommended. This led to the

Commission issuing the impugned revised result recommending him for the post instead of the petitioner. There is no dispute regarding entitlement of marks to the third respondent which made his score higher than that of the petitioner. As a result, he was rightly declared selected instead of the petitioner. In case the Commission corrected its inadvertent error and revised the selection result strictly as per merit determined by awarding marks in line with the criteria, no exception can be taken to it. There is nothing arbitrary, illegal or irregular about it, nor is there any document or material on record to even prima facie indicate that the exercise to revise the result was mala fide or based on extraneous considerations.”

6. Learned counsel for the appellant vehemently argues that the criteria for award of two marks was introduced after the recruitment process had begun and therefore, by virtue of judgment passed by Constitution Bench of the Hon'ble Supreme Court in **Tej Prakash Parthak Vs. Rajasthan High Court**, 2025(2) SCC 1, such subsequent adoption of criteria for issuance of marks, would amount to changing the rules of the game after it has commenced. Reliance has been placed upon paragraph No.30 of the judgment passed by Constitution Bench of Hon'ble Supreme Court, which reads as under:-

“30. What is clear from above is that the object of any process of selection for entry into a public service is to ensure that a person most suitable for the post is selected. What is suitable for one post may not be for the other. Thus, a degree of discretion is necessary to be left to the employer to devise its method/ procedure to select a candidate most suitable for the post albeit subject to the overarching principles enshrined in

Articles 14 and 16 of the Constitution as also the Rules/ Statute governing service and reservation. Thus, in our view, the appointing authority/recruiting authority/ competent authority, in absence of Rules to the contrary, can devise a procedure for selection of a candidate suitable to the post and while doing so it may also set benchmarks for different stages of the recruitment process including written examination and interview. However, if any such benchmark is set, the same should be stipulated before the commencement of the recruitment process. But if the extant Rules or the advertisement inviting applications empower the competent authority to set benchmarks at different stages of the recruitment process, then such benchmarks may be set any time before that stage is reached so that neither the candidate nor the evaluator/ examiner/ interviewer is taken by surprise. The decision in K. Manjusree (supra) does not proscribe setting of benchmarks for various stages of the recruitment process but mandates that it should not be set after the stage is over, in other words after the game has already been played. This view is in consonance with the rule against arbitrariness enshrined in Article 14 of the Constitution and meets the legitimate expectation of the candidates as also the requirement of transparency in recruitment to public services and thereby obviates mal practices in preparation of select list.”

7. Per contra, learned counsel for the Commission and the private respondent submit that the criteria fixed by the Commission for award of two marks is not to be used interchangeably with change of the rules of the game, inasmuch as the interview board is always considered to have jurisdiction to evolve criteria for evaluation of candidature of candidates. In this regard, the Commission has placed on record the decision taken on

16.02.2018, which clearly stipulates that with post-graduation in relevant subject, the candidate would be entitled to two marks. The original decision taken on 16.02.2018 by the Commission has also been produced in the Court, contents whereof are reproduced hereinbelow:-

“Secret

Commission lay down the following criteria for assessing the relative merit of the candidates through viva-voce for selection to the posts of Assistant Engineer (Civil, Electrical, Mechanical) (Class-II) in Irrigation Department, Haryana (Advertisement No.8(7) of 2015 published on 08.02.2016.

a) Recruitment/short listing Test **50 marks**
50% of marks obtained by the candidate in Recruitment/Short listing test.

(Subject to a maximum marks of 50)

b) Academic Qualification/Personal Achievements & Viva-voce **50 marks**

<i>Matric</i>	<i>50.0% to 59.99%</i>	<i>03 marks</i>
	<i>60.0% and above</i>	<i>05 marks</i>

<i>10+2</i>	<i>50.0% to 59.99%</i>	<i>03 marks</i>
	<i>60.0% and above</i>	<i>05 marks</i>

<i>Degree in the relevant subject from recognized University/Institute</i>	<i>50.0% to 59.99%</i>	<i>03 marks</i>
	<i>60.0% and above</i>	<i>05 marks</i>

<i>Consistency</i>		<i>04 marks</i>
<i>50% and above in any two out of (Matrix, 10+2 & Degree)</i>		<i>04 marks</i>
<i>60% and above in any two out of (Matrix, 10+2 & Degree)</i>		<i>03 marks</i>

<i>Post Graduation in the relevant subject</i>		<i>02 marks</i>
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<i>Ph.D in the relevant subject</i>		<i>05 marks</i>
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Sports		04 marks
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<i>i) Participation at International sports event in a sports recognized by Indian Olympic Association</i>		<i>01 marks</i>
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<i>ii) Participation at Asiad sports event in a sports recognized by Indian Olympic Association.</i>		<i>02 marks</i>
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<i>iii) Participation at Olympic sports event in a sports</i>		<i>04 marks</i>
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recognized by Indian Olympic Association

*(subject to maximum of 02 marks in case of participation in (i) and (ii)
(subject to maximum of 04 marks in case of participation in (i) and (iii)
(subject to maximum of 04 marks)*

Viva-voce: **20 marks**

The interview will be conducted through oral discussion and questioning which will be the touchstone to ascertain personal qualities. i.e. Professional knowledge, speaking ability, expression, awareness, intelligence, outlook towards social & national issues, Orientation and Commitment towards public service, Poise, bearing, articulation, ethics & values, presentation, alertness, behaviour, decision making & other related qualities.

Sd/-	Sd/-	Sd/-	Sd/-	Sd/-	Sd/-	Sd/-	Sd/-
M-I	M-II	M-III	M-IV	M-V	M-VI	M-VIIM-VIII	

*Sd/-
Chairman”*

8. Learned counsel for Commission states that the Commission has conducted selection in a transparent and fair manner, and award of two marks for post graduation degree otherwise cannot be said to be irrational or arbitrary when the eligibility is only graduation. It is further submitted that there is no allegation of *mala fide* against the Commission and since the decision was uniformly applied for all, the appellant cannot be given an advantage of any inadvertent error which crept in the process of uploading of result.

9. We have considered respective the submissions advanced by learned counsel for parties and perused the materials on record. The records would clearly indicate that the recruitment was to be made pursuant to the

advertisement published by the Commission on 08.02.2016. The qualification for the post of Assistant Engineer (Civil, Mechanical & Electrical) (Category No.7) is B.E. (in respective branch) or equivalent qualification as mentioned in Appendix-B of HSE (Group B) Rules, 1970. The other qualification is knowledge of Hindi or Sanskrit upto Matric standard. The candidature of present appellant as well as the private respondent has been accorded consideration in terms of the regular rules of recruitment as well as the advertisement published in light of them. The appellant has scored 61.90 marks and the marks secured by private respondent is 63.33. It is, therefore, apparent that the private respondent has been able to secure higher marks only on account of two marks, accorded to him for his post-graduation degree in M.Tech.

10. The thrust of appellant's submission is that award of two marks for post-graduation degree did not form part of the advertisement or the recruitment rules and that the decision taken by the Commission on 16.02.2018 for awarding such marks is after the recruitment has commenced and therefore this would amount to change of rules of the game after same has begun. It is also submitted that the decision to award two additional marks for post-graduation was actually taken on 09.03.2018 and not on 16.02.2018. For such purposes, the appellant places reliance upon an order passed by the learned Single Judge of this Court in Civil Writ Petition No.11759 of 2018, which reads as under:-

“Pursuant to order passed by this Court, xerox copy of the result of the petitioner has been produced in a sealed cover, which has been ordered to be opened. Result is taken on record.

The original detailed marks are ordered to be resealed and returned back to the counsel for the Commission.

Perusal of the result shows that after awarding 14 marks to selected candidate-respondent No.3, two additional marks were awarded to him and the noting on the mark-sheet is as under:-

“Marks have been awarded as per decision of Commission dated 09.03.2018 based on clarification of Department and as per criteria.”

Counsel representing the Commission-respondent No.1 seeks and is granted time to file an affidavit explaining the situation.

List on 17.05.2023”

11. Reliance is also placed upon the contention made before the learned Single Judge in paragraph No.6 of the written statement filed by Commission to state that in fact the decision to award two additional marks was taken on 09.03.2018, on which date the result was also declared.

12. So far as the contention of appellant that there was any change in the rules of the game after it has commenced, is concerned, we do not find any applicability of such principle in the facts of the present case. The Commission was required to conduct the recruitment for the post of Assistant Engineer. The examination, essentially, was in two parts. The first part refer to recruitment/shortlisting test of 50 marks. The candidates were then required to be awarded marks out of total 30 marks based upon based upon their academic qualification/personal achievements, while 20 marks were reserved for viva voce. In what manner, the marks would be allocated to a candidate would be a decision that was open to be taken by the

recruitment committee in a fair and transparent manner. It is not disputed on behalf of the appellant that this criteria/principle has not been uniformly followed. It has also not been shown that this criteria resorted to by the Commission, in any manner, violated any provisions of the applicable service rules. In such circumstances, we are not impressed by the appellant's contention that there was any change in the rules of the game after it had commenced. It is always open to the Commissioner to lay down the norms for the recruitment in a fair and transparent manner and to follow it uniformly for all candidates. The judgment of the Supreme Court in **Tej Prakash Pathak** (supra), therefore, has no applicability in facts of the present case. The thrust of appellant's submission is that the criteria placed on record, on behalf of the Commission, allegedly evolved on 16.02.2018 was actually given effect on 09.03.2018. This argument of the appellant is noticed. The reason for it is not difficult to be assessed. The Commission has produced before us the minutes of meetings, in the original, signed by all members of the Commission chaired by its Chairman on 16.02.2018. There is no other decision which has been brought on record to indicate that such a decision as to such criteria was evolved only on 09.03.2018. We are also not persuaded to accept the contention of the appellant, relying upon the observations made by the learned Single Judge of this Court in judgment passed in CWP No.11759 of 2018 on 23.02.2023, that the decision of the Commission was dated 09.03.2018. In fact, what was clearly intended is that the marks have been awarded as per decision of the Commission and the reference to date 09.03.2018, apparently is to the award of marks based on

tabulation, which ultimately got uploaded on the website of Commission on 09.03.2018. The clarification obtained from the State Government was of 06.03.2018. Even otherwise, the fact that appellant was interviewed on 05.03.2018 would not make any difference since it is undisputed that the appellant does not possess any post-graduation degree. Even otherwise, we find that no allegation of *mala fide* has been raised against the Commission in present appeal. The Commission has acted in a fair and transparent manner in selecting the candidates based upon a uniformed criteria. The award of two additional marks for post-graduation degree otherwise does not appear to be irrational or arbitrary. In such circumstances, we are in agreement with the view taken by the learned Single Judge of this Court while passing judgment dated 02.04.2024.

13. In view of above, present appeals are dismissed.

14. Pending application(s), if any, stand disposed of. Photocopy of this judgment be placed on the file of connected case.

(ASHWANI KUMAR MISHRA)
JUDGE

(PARMOD GOYAL)
JUDGE

April 10, 2026
Sunil Chander

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