

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-12170-2016 (O&M)

Pawan Kumar ... Petitioner

VS.

Sainik School Kunjpura, Karnal & Ors. ... Respondents

1.	Judgment reserved on	06.11.2025
2.	Judgment pronounced on	21.01.2026
3.	Judgment uploaded on	22.01.2026
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: Mr. Govind Chauhan, Advocate for the petitioner

Mr. BS Bedi, Advocate for respondents No.1&2

Mr. Padam Kant Dwivedi, Advocate and
Ms. Ayushi, Advocate for respondent No.3

Sandeep Moudgil, J.

(1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India, *inter alia*, for issuing a writ of certiorari for setting aside order of the appointment of respondent No.3 and directing the respondents to appoint the petitioner to the post of Assistant Master (Hindi) after correcting the merit list.

(2). The petitioner had earlier been appointed as Assistant Master (Hindi) on contractual/temporary basis with effect from 01.11.2014 and continued to work as such and his services were allowed to be continued from time to time. Thereafter, the post of Assistant Master (Hindi) was firstly advertised in July, 2015 wherein no suitable candidate was found including the petitioner followed by another advertisement in December 2015 and in the said advertisement it was specifically mentioned that “candidates who had applied

earlier need not apply again”. Meaning thereby that the candidates who had applied pursuant to the earlier advertisement of July, 2015 could participate in the selection without submitting a fresh application. However, the petitioner filed CWP No. 27301 of 2015 challenging the said advertisement, which was disposed of on 20.01.2016 on the statement made on behalf of the respondents that petitioner would be considered for appointment to the post of Assistant Master (Hindi) on regular basis. Pursuant thereto, the petitioner appeared in the written test conducted by the answering respondent and also appeared in the interview. It is pertinent to mention that the SOP for selection of staff in Sainik Schools provides the procedure for appointment of staff members, including conduct of written test, interview and constitution of Selection Board. The petitioner participated in the selection process but remained unsuccessful, whereas respondent No. 3 was selected and appointed as a successful candidate.

(3). Meanwhile, the petitioner also challenged another advertisement issued for appointment of Assistant Master (Hindi) on contractual basis, which had been issued since the process of regular recruitment was then pending and had not been completed. However, the said advertisement dated 09.03.2016 was withdrawn on 01.04.2016 as the process of regular recruitment pursuant to the December 2015 advertisement had been completed and respondent No. 3 was appointed as Assistant Master (Hindi) on regular basis on 02.04.2016. Consequently, CWP No. 5235 of 2016 filed by the petitioner was dismissed with the observation that the advertisement dated 09.03.2016 stood withdrawn on 01.04.2016 since regular recruitment to the post of Assistant Master (Hindi) had taken place in pursuance of the regular recruitment notified in December

2015 and respondent No.3 had been appointed on 02.04.2016, even though the petitioner had participated but failed to get selected. Hence this writ petition.

(4). Learned counsel for the petitioner contends that the respondents intentionally did not want to select the petitioner and also terminated the services of the petitioner vide order dated 29.02.2016 (Annexure P9) as a counter-blast to the writ petition filed against the respondents for consideration of his earlier application. He submits that CWP-5235-2016 by the petitioner impugning the termination order wherein this Court granted interim relief.

(5). It is submitted that as per the information sought under the RTI Act, it is evident that the petitioner secured 6.2 marks out of 10 marks in written test and 31.5 marks out of 60 marks in interview whereas respondent No.3 secured 3 marks in the written test and 44.8 marks in the interview. He contends that the respondent No.3 has secured much less marks in the written test and interview as against the petitioner and the criteria which is mentioned in RTI is same as mentioned in SOP which in itself is arbitrary where the appointing authority fixed 60% marks for interview and only 10% marks for written test.

(6). Written statement has been filed by the respondents No.1&2 wherein it has been averred that the SOP for selection of staff in Sainik Schools prescribes the procedure for appointment of staff members, including written test, interview and evaluation by a duly constituted Board. He submits that the petitioner was fully aware of the procedure for appointment to the post of Assistant Master (Hindi) on regular basis, having already participated in the earlier selection process where no suitable candidate was found and the selection was cancelled, yet he never challenged the selection procedure or

criteria at any stage. The petitioner, in fact, questioned only the advertisement(s) by filing CWP No. 27301 of 2015 and CWP No. 5235 of 2016, which were disposed of/dismissed after due consideration, and at no point did he impugn the validity of the SOP, the composition of the Selection Board or the manner of award of marks in interview.

(7). It is urged that another candidate, namely, Suman Malik, had also secured 6.2 marks in the written test, which are higher than the 3.6 marks obtained by respondent No. 3, whereas in the interview the petitioner secured 31.5 marks and Suman Malik secured 33.8 marks, and respondent no. 3 was awarded 44.8 marks out of 60 in interview. The Selection Board comprised six members, each of whom independently evaluated the interview performance of every candidate and awarded marks, whereafter the average of the marks so awarded was taken to determine the final interview score out of 60 for each candidate, strictly in accordance with the SOP. Mere circumstance that respondent No. 3 secured 3.6/10 in the written test and 44.8/60 in the interview, while the petitioner secured 6.2/10 in the written test and 31.5/60 in the interview, does not render the selection process arbitrary or mala fide, and the appointment of respondent No. 3 as Assistant Master (Hindi) on regular basis cannot be faulted on this score.

(8). Heard learned counsel for the parties.

(9). As per the RTI information, it can be seen that out of the total marks, only 10 marks were earmarked for the written test, while as many as 60 were allotted for the interview, and that the petitioner secured 6.2/10 in written test and 31.5/60 in interview, whereas respondent No.3 obtained only 3.6 out of 10 marks in written test and 44.8 marks out of 60 marks in interview. Likewise,

another candidate, Suman Malik, also secured 6.2 in written and 33.8 in interview. The net effect is that the candidate with lower objective performance in the written test (respondent No.3) was placed above the petitioner and Suman Malik purely on the strength of a significantly higher interview score, interview thus becoming the determinative component of the selection.

(10). A Constitution Bench of the Supreme Court in **Ajay Hasia v. Khalid Mujib Sehravardi, AIR 1981 SC 487**, while considering an admission scheme where 50 out of 150 marks were earmarked for viva-voce, categorically held that allocation of such a high proportion of marks for interview is “excessive” and arbitrary, as it permits candidates with lower merit in objective assessment to be preferred and opens the door to unfairness and nepotism, and directed that such high viva allocation must be reviewed. The principle distilled in later summaries of the Court’s jurisprudence is that allocation of more than 15 per cent of the total marks for viva voce test would be unreasonable and excessive in public employment, and that viva-voce marks beyond this range are liable to be struck down as constitutionally invalid.

(11). Similarly, in **Munindra Kumar v. Rajiv Govil, (1991) 3 SCC 368**, the Supreme Court examined a scheme allocating 120 marks for written test and 80 marks (40 + 40) for interview and group discussion, i.e. about 40% of the total for viva-based components, and held that such allocation was arbitrary and directed that 15 per cent marks in all are to be kept for interview, and if the rule making authorities want to keep group discussion also as one of the modes of selection then marks for interview and group discussion should not exceed 10 per cent and 5 per cent, respectively of the total marks.

(12). Measured against this settled legal position, the selection framework adopted in the present case is manifestly unsustainable. Here, the written test, which is the sole objective indicator of merit, carries only 10 marks, whereas the interview carries 60 marks, making the viva-voce six times more weighty than the written component and far beyond the 15% ceiling accepted as reasonable in Ajay Hasia's case , and the subsequent line of authorities. This design, by itself, equips the Board with the very kind of uncanalised discretion which the Supreme Court has consistently cautioned against and declared to be violative of Articles 14 and 16.

(13). Moreover, the manner in which these criteria have been applied here reinforces the presumption of arbitrariness. The petitioner and Suman Malik, both with higher written-test marks, have been pushed below respondent No.3, who has lower written marks of only 3.6 out of 10 marks, purely because the latter has been awarded a disproportionately high interview score of 44.8 out of 60 marks by a six-member Board, while the petitioner has been confined to 31.5 out of 60 marks and Suman Malik to 33.8 out of 60 marks. This factual pattern is a textbook illustration of the mischief noticed in Ajay Hasia and Munindra Kumar, where candidates with superior objective performance are displaced by those favoured through the subjective viva component, and courts have interfered in comparable cases where “excessive and opaque” interview marks have been used to neutralise written-exam merit.

(14). In view of the above discussion, this writ petition is allowed and the respondents are directed to consider the petitioner for appointment to the post of Assistant Master (Hindi) w.e.f. the date respondent No.3 was given appointment with all service and incidental benefits along with arrears with

interest @ 6% p.a. within a period of 2 months from the date of receipt of certified copy of this order.

21.01.2026

V.Vishal

(Sandeep Moudgil)
Judge

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

Yes/No
Yes/No