



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

CWP-22700-2020

Date of decision: 11.02.2026

Prashant Pandey

....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Ms. Mansi Majoka, Advocate
for the petitioner.Mr. Hitesh Pandit, Advocate
for respondents No.1 to 5.

Mr. Saurabh Girdhar, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 13.09.2019 (Annexure P-8) passed by respondent No.3 vide which the appointment of the petitioner as Shift Attendant, against the reserved post for the disabled persons, has been cancelled.

CONTENTIONS

2. Learned counsel for the petitioner *inter alia* contends that the petitioner participated in the selection process in terms of the advertisement No.3 of 2016 under Category 1 i.e. Shift Attendant. A total of 2426 posts for Shift Attendants were advertised across multiple departments, out of which 36 posts were kept reserved for partially deaf candidates. Accordingly, on the basis of the online application (Annexure P-2) of the petitioner, respondent No.6-



Commission issued him a roll number, as indicated by the admit card (Annexure P-3), with which he appeared in the written examination. Thereafter, on the basis of written examination, respondent No.6-Commission conducted scrutiny of documents and an interview for the post of Shift Attendant. The final result was declared on 08.03.2019 (Annexure P-4) whereby the petitioner was declared successful.

3. Further, the petitioner was issued an offer letter dated 27.05.2019 (Annexure P-5) for appointment to the post of Shift Attendant with the respondent-UHBVNL. The petitioner accepted the appointment vide intimation letter dated 07.06.2019 and submitted the required documents along with a medical certificate to respondent No.2-Chief Engineer/Operation, UHBVNL, as discernible from Annexure P-6. After due verification of the documents submitted by the petitioner, he was appointed as Shift Attendant by respondent No.2 and was directed to join duty in the office of respondent No.4, as indicated by the order of appointment dated 07.06.2019 (Annexure P-7). Accordingly, on 20.06.2019, the petitioner reported to respondent No.4 i.e. Superintending Engineer (OP) Circle, UHBVNL Sonapat, who further directed the petitioner to join in the office of respondent No.5-XEN S/U Division, UHBVNL Sonapat. However, respondent No.5-XEN refused to accept his joining as there was no requirement of a Shift Attendant in his office. Consequently, the petitioner approached respondent No.2-Chief Engineer/Operation, UHBVNL and informed him of the situation. Thereafter, much to the surprise of the petitioner, respondent No.3-Administrative Officer, UHBVNL, vide impugned order dated 13.09.2019 (Annexure P-8) cancelled the offer of appointment made to the petitioner by passing a non-speaking and



cryptic order in gross violation of the principles of natural justice. The petitioner made a representation on 09.03.2020 seeking withdrawal of the impugned order dated 13.09.2019 (Annexure P-8). However, the same remained unheeded.

4. Learned counsel further refers to the advertisement (Annexure P-1) and submits that in order to claim reservation in the said category, the applicant ought to have not less than 40% of the relevant disability. Since the petitioner meets the minimum benchmark as set out in the advertisement (Annexure P-1), his appointment cannot be cancelled, especially since he has been selected in pursuance of the proper process. She further refers to the order dated 14.03.2024, vide which this Court had asked the respondent-UHBVNL to file an affidavit indicating the availability of any job with the UHBVNL, other than the field offices, which can be performed by a 100% disabled person as well. In compliance with the same, an affidavit was filed, however, it does not satisfactorily answer the query posed. The said affidavit merely stated that there is no place in the field offices suitable for a 100% disabled person.

5. As such, the action of the respondent-UHBVNL is contrary to the mandate of the Rights of Persons with Disabilities Act, 2016 (in short 'the RPWD') which requires identification of a suitable post for the disabled persons. Further, learned counsel for the petitioner submits that vide letter dated 31.07.2006 issued by the Director, Department of Social Justice and Empowerment available at Annexure R-1, annexed with Affidavit of Jiwan Kumar, Under Secretary, UHBVNL, exemption has only been granted for the posts of Assistant Engineer and Junior Engineer while nothing has been mentioned regarding the post of Shift Attendant. Lastly, it is submitted that



about 20 posts are presently lying vacant under the HH category.

6. *Per contra*, learned counsel for respondents No.1 to 5 submits that respondent No.2, being the employer, had sent a clear requisition for the post of Shift Attendant and also provided reservation of 36 posts to partially deaf candidates. However, the petitioner is 100% deaf and as such, would be a danger to himself and those around him if he is allowed to work as a Shift Attendant with the UHBVNL. Moreover, the fault lies with respondent No.6-Commission as it should not have recommended a 100% deaf candidate for the post of Shift Attendant after ascertaining the extent of his disability during the process of scrutiny of documents. He further submits that the respondent-UHBVNL being the employer, is not bound to accept the recommendation of the recruitment agency and was well within its rights to cancel the appointment of the petitioner after examining his suitability.

7. Learned counsel further refers to letter dated 31.07.2006 available at Annexure R-1, annexed with Affidavit of Jiwan Kumar, Under Secretary, UHBVNL, and submits that the Department of Social Justice and Empowerment, Haryana has granted exemption under Section 33 of RPWD to the post of Assistant Engineer/Junior Engineer and Shift Attendant and allowed appointment of candidates with one leg and those who are partially deaf to the said posts. Further, reference is made to the list of duties of the Shift Attendant, as outlined in the letter dated 19.03.2020 (Annexure R-1), to submit that the nature of the listed duties is such that any inability to adequately perform the same could seriously endanger the lives of the field staff as well as that of the Shift Attendant. Thus, the fact that the petitioner is 100% deaf makes him unsuitable to be recruited to the said post.



8. Further, it is a trite law that mere selection by the recruitment agency does not create a vested right of an appointment in favour of a candidate. Moreover, a perusal of advertisement (Annexure P-1) would indicate that all other advertised posts, except that of Shift Attendant, require higher qualifications than those possessed by the petitioner i.e. Matric with 02 year ITI course in Electrician/Wireman trade. Consequently, the petitioner cannot be considered for or adjusted against any of the advertised posts.

OBSERVATIONS AND ANALYSIS

9. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioner participated in the selection process initiated by respondent No.6-Commission vide advertisement (Annexure P-1) under the HH category, meant for partially deaf candidates. However, the petitioner is deaf to the extent of 100%. Once the petitioner had cleared the written examination, the respondent-Commission had invited him for scrutiny of documents and an interview. In spite of realising that the petitioner cannot hear, the respondent-Commission recommended him to the post of Shift Attendant, in contravention of the requisition sent by the employer-UHBVNL.

10. Further, a bare perusal of the advertisement (Annexure P-1) would make it clear that the intended benefactors of the said reservation were partially deaf candidates, thus, not those who are entirely deaf. The HPVNL had sought exemption for recruitment to the posts of Assistant Engineer/Junior Engineer and Shift Attendant vide letter dated 31.07.2006 and partially deaf persons were allowed to be recruited against them. The advertisement (Annexure P-1) leaves no ambiguity regarding the extent of disability that would render a candidate



suitable for the post of Shift Attendant. Moreover, a Shift Attendant is required to carry out switching operation on heavy duty electrical equipments as per the operating instructions, while following the safety code. The duties of the Shift Attendant have also been set out in the office order dated 09.03.2020 (Annexure R-1) attached with the written statement and the same is reproduced as under:-

“DUTIES OF SA (REGULAR)”

- 1. To carry out switching operations on all equipments as per operating Instructions/manuals while following safety code instructions. He will be responsible for all switching operations carried out in his shift.*
- 2. To ensure that D.C and A.C supply to various equipments, protection and lighting scheme etc. is always available and remains within specified parameters for proper working of the same.*
- 3. To ensure that all safety/security measures are properly enforced and proper discipline is maintained.*
- 4. To ensure that station battery remains on float/quick charge as per manufactures recommendations.*
- 5. To inform officer in charge of line in case of tripping/breakdown while specifying indication of the fault and also to seek clearance certificate in case of breakdown etc. for restoration of supply.*
- 6. To issue and cancel the PTWs with the permission of sub-stn. Incharge under his signatures while ensuring that supply is, switched off/drawl of VCB trolley/earthing etc. as per requirement of PTW following all the Instructions contained in the safety manual/code.*
- 7. To maintain and operate the fire fighting equipments in case of fire with the help of other staff member.*
- 8. To maintain a log of all the panel reading/tripping/abnormalities, interruptions of supply, operations carried out and any other matter relating to the working of system in the control room in log sheet.*
- 9. To record power cut/load shedding data in the power cut register.*
- 10. To carry out periodical maintenance of equipments, earth values etc.*
- 11. To assist the M&P team in periodical checkings.*
- 12. To check and operate OLTC on P/T/F under supervision of sub-station incharge.*



13. To check and ensure that all the lighting fixtures/protection system viz, relays, annunciators etc, are functional.

14. To Implement Safety Code instructions in letter and spirit, being qualified in. 'Safety Code Test',

15. Any other job assigned by SDO/Sub-Station Incharge.”

11. As such, it is pertinent that the candidate appointed to this post is able to remain alert and respond to situations immediately, which might pose to be difficult for a 100% deaf person. Therefore, in view of the safety of all those involved, the respondent-UHBVNL was justified in cancelling the appointment of the petitioner. Insofar as the contention of learned counsel for the petitioner regarding adjustment of the petitioner against the 20 vacant posts is concerned, this Court is of the considered opinion that since the petitioner is not fit for the job of a Shift Attendant, the availability of vacant posts is inconsequential. Additionally, since the petitioner does not possess the requisite essential qualifications for any other advertised post, his candidature cannot be considered against 20 vacant posts.

12. Further still, mere selection does not create a vested right for appointment nor can it be considered equivalent to appointment. Tritely, appointment falls under the exclusive domain of the employer, who is the best judge of suitability of a candidate to the concerned post. A three-Judge Bench of the Hon'ble Supreme Court in ***Jatinder Kumar vs. State of Punjab (1985) 1 SCC 122*** has held that the recommendations made by bodies like Public Service Commissions are recommendatory in nature and it is the appointing authority who shall be the final arbiter of the eligibility of the selected candidates. Speaking through Justice R.B. Misra, the following was opined:

“12. The establishment of an independent body like Public Service Commission is to ensure selection of best available persons for appointment in a post to avoid arbitrariness and nepotism in the matter



*of appointment. It is constituted by persons of high ability, varied experience and of undisputed integrity and further assisted by experts on the subject. It is true that they are appointed by Government but once they are appointed their independence is secured by various provisions of the Constitution. Whenever the Government is required to make an appointment to a higher public office it is required to consult the Public Service Commission. The selection has to be made by the Commission and the Government has to fill up the posts by appointing those selected and recommended by the Commission adhering to the order of merit in the list of candidates sent by the Public Service Commission. **The selection by the Commission, however, is only a recommendation of the Commission and the final authority for appointment is the Government.** The Government may accept the recommendation or may decline to accept the same. But if it chooses not to accept the recommendation of the Commission the Constitution enjoins the Government to place on the table of the Legislative Assembly its reasons and report for doing so. Thus, the Government is made answerable to the House for any departure vide Article 323 of the Constitution. This, however, does not clothe the appellants with any such right. They cannot claim as of right that the Government must accept the recommendation of the Commission. **If, however, the vacancy is to be filled up, the Government has to make appointment strictly adhering to the order of merit as recommended by the Public Service Commission. It cannot disturb the order of merit according to its own sweet will except for other good reasons viz. bad conduct or character.** The Government also cannot appoint a person whose name does not appear in the list. But it is open to the Government to decide how many appointments will be made. The process for selection and selection for the purpose of recruitment against anticipated vacancies does not create a right to be appointed to the post which can be enforced by a mandamus.”*

(emphasis added)

13. In view of the discussion above, the present petition is hereby dismissed.

14. However, the fact remains that the respondent-Commission recommended the candidature of the petitioner, who is 100% deaf, to the post of Shift Attendant, where reservation was made only for those with partial deafness in the concerned category. Therefore, this Court finds it appropriate to



burden respondent No.6-Haryana Staff Selection Commission with a cost of ₹1,00,000/-, payable to the petitioner as compensation for the unnecessary hardship and trauma caused to him. The payment be made within 04 weeks of the date of receipt of a certified copy of this order.

15. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

11.02.2026

Neha

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