

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2026:PHHC:016494-DB



LPA-3280-2025 (O&M)
Date of Decision: 04.02.2026

Dalvir Singh

...Appellant

Vs.

State of Haryana and others

...Respondent

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. Nishant Badhran, Advocate,
Ms. Vanshika, Advocate and
Mr. Baldev Singh, Advocate for the appellant.

Mr. Pankaj Middha, Addl. AG, Haryana.

ASHWANI KUMAR MISHRA, J. (Oral)

1. Learned Single Judge has dismissed the writ petition filed by the appellant in respect of his claim for appointment against recruitment exercise conducted in the year 2013-14.

2. It transpires that the respondents initiated recruitment process pursuant to advertisement No.1 of 2013 for the post of Constable (Ex. Serviceman). The recruitment was based upon assessment of relative merit of the candidate for the Physical Efficiency Test ('PET') and interview. There was no written test as such provided for the recruitment. The recruitment was regulated by statutory rules, which have been annexed with the appeal. Learned counsel for the appellant has placed reliance upon Rule 12.16 (17) of the Punjab Police Rules, 1934, insofar as it relates to the State of Haryana.

Clause 17 lays down the manner in which the relative merit is to be adjudged.

Clause 17 of the Rules of 1934, are reproduced as under:-

“On completion of the interview/personality test all the candidates who had qualified the physical efficiency test and has appeared for the personality test will be arranged as per their inter se merit on the basis of the marks secured by them in the physical efficiency test and interview. Separate lists shall be prepared for the general candidates belonging to the Backward Classes, candidates belonging to Scheduled Castes/Scheduled Tribes and to the Ex. Servicemen category.”

3. It transpires that the appellant secured '26' marks consisting of '16' out of 20 marks in PET and '10' out of '15' marks in interview. Some of the candidates who had secured '26' marks as was the marks secured by the appellant were ultimately selected but the appellant was left out. It was in this context that the appellant approached the writ Court.

4. In the writ petition, learned Single Judge at the initial stage passed orders requiring the respondents to clarify as to what was the principle to be followed for determining the *inter se* merit of candidates who had secured equal marks. The appellant contended that, in fact, a criteria for determining the *inter se* merit of the candidates who had secured equal marks, was evolved later, once the game had begun. Reliance is placed on the judgment of the Hon'ble Supreme Court in the case of **Tej Prakash Pathak vs. Rajasthan High Court 2024 INSC 847.**

5. Learned Single Judge dismissed the writ petition after noticing the facts of the case according to which '53' persons had secured '26' marks.

The recruitment was undertaken by the Police Selection Board, which was

subsequently dissolved in the year 2015 and the records were transmitted to the Haryana Staff Selection Commission.

6. The respondents have placed on record a document (Annexure R-3/1), which lays down the criteria followed by the Board for preparation of waiting list in respect of candidates who had secured equal marks. The criteria reads as under:

“1. All candidates in the waiting list have secured total 26 marks (combined score of physical tests and interview). Candidates with higher physical test marks (18 Marks) have been listed first.
2. Thereafter candidates having same combined score of (26 marks) and with same physical tests marks (16) have been listed sequentially according to their date of birth. Candidate with early date of birth have been listed first.”

7. The learned Single Judge has observed that the criteria followed by the respondents by giving primacy to marks secured in PET was not flawed. In view of the fact that the recruitment was concluded in the year 2014 and by now the appellant was above 50 years of age, no relief was found admissible to the appellant. Thus aggrieved, the appellant is before this Court.

8. Learned counsel for the appellant submits that Rule 17 of the PPR, 1934, does not provide the manner in which the *inter se* merit was to be adjudged for the candidates who secured equal marks. It is submitted that once that be the exigency, the only possible interpretation that could have been relied upon was the age, and, therefore, persons higher in age ought to have been preferred. It is submitted that the criteria followed by the Board for undertaking selection was evolved later, which amounted to varying the rules

of the game after it had begun and, therefore, in view of the judgment in Tej Prakash Pathak (supra), the writ petition filed by the appellant was liable to be allowed. It is also submitted that the submissions advanced, on this count, have not been dealt with.

9. The appeal is opposed by the learned State counsel who states that the criteria followed for the Board cannot be said to be arbitrary and, therefore, no interference in the matter is called for.

10. From the respective arguments advanced before the Court, it remains undisputed that the recruitment to the post in question was required to be regulated by the Statutory Rules which did not contemplate for any exigency of the present kind where other candidates have secured equal marks. Rule 17 only provides that the merit will be drawn on the strength of marks secured in PET and interview.

11. In this case, there were '53' candidates who had secured equal marks. The recruitment was based upon PET and interview. The Board in the absence of any stipulation in the rule was required to evolve a reasonable basis for determining the *inter se* merit of candidates, who had secured equal marks. Unless found otherwise, some play in the joints would have to be left to the discretion of the Selection Committee, particularly where the rules are silent. In the present case, we find that two limbs for adjudging the *inter se* merit were the (i) PET and (ii) interview. Between the two, PET can be said to be based on more objective criteria. Some element of subjectivity would be involved, when the marks are given by the interviewer. The decision taken by the Board to give primacy for adjudging the *inter se* merit of the candidates to the marks obtained in PET, cannot be said to be arbitrary when

the rules are otherwise silent and a reasonable view is taken to deal with the exigency as had arisen in the present case.

12. No allegation of mala fide was otherwise levelled against the Board. The criteria as has been evolved by the Board was uniformly followed for all candidates. It was also noted that that the recruitment was concluded way back in the year 2013. Considering the long lapse of time and also the fact that the recruitment otherwise was based on exercise of discretion by the board which cannot be said to be arbitrary or unreasonable, we find no exception to the view taken by the learned Single Judge in not accepting the appellant's claim. So far as the judgment of the Hon'ble Supreme Court in Tej Prakash Pathak (supra) is concerned, the principle of law that the rules of the game cannot be changed once the game had begun, is well settled to be doubted. However, in the facts of the present case, we do not find any application of the said principles inasmuch as the rules of the game had not been altered by the Board after the recruitment process had begun. It was only when a peculiar exigency arose before the Board of '53' candidates securing equal marks and lesser number of posts being available, that a criteria had to be evolved to deal with the situation. The decision taken in such exigency is found to be reasonable and it cannot be construed as an act of altering the rules amidst the game. The argument that the decision was not taken by the Board but by the Chairman in his individual capacity, is also noticed only to be rejected. The reason is that the original records of recruitment were not available as the Board had been disbanded in 2015, and the available material has been relied upon as constituting the stand of the Board. Even if it was a decision taken by the Chairman in his individual

capacity, even then no exception can be taken to the decision for the reasons recorded hereinabove.

13. In that view of the matter, we do not find it to be a fit case warranting interference. The appeal lacks merit and is accordingly dismissed.

14. All pending misc. application(s), if any, also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

04.02.2026
rajesh

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| 1. Whether speaking/reasoned? | : | Yes/No |
| 2. Whether reportable? | : | Yes/No |