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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 6236/2026**

PARSHANT TIWARI

.....Petitioner

Through: Mr. Ramesh Chandra Singh,
Advocate.

versus

AIRPORT AUTHORITY OF INDIA AND ANR.Respondents

Through: Mr. Digvijay Rai, Standing Counsel
for AAI with Mr. Archit Mishra,
Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

08.05.2026

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1. The Petitioner invokes Article 226 of the Constitution seeking a direction to the Airports Authority of India¹ to operate the waitlist/merit list for the EWS category in relation to the post of Senior Assistant (Electronics) under Advertisement No. 01/2025/NR. A consequential direction is also sought for consideration of the Petitioner for appointment against the alleged unfilled EWS vacancies.
2. Since the material facts necessary for deciding the issue arise from the Petitioner's own pleadings and the recruitment documents placed on record, no counter-affidavit is being called for. The petition has been heard at the admission stage itself.
3. The Petitioner belongs to the EWS category. He applied for the post



of Senior Assistant (Electronics) under Advertisement No. 01/2025/NR issued by AAI, Northern Region. The advertisement notified 47 vacancies for the post of Senior Assistant (Electronics), out of which 4 vacancies were earmarked for EWS candidates. The Petitioner appeared in the Computer Based Test held on 21st April, 2025 and secured 52 marks.

4. The grievance is that although four EWS vacancies had been advertised, only two candidates were ultimately appointed after document verification. The Petitioner submits that the remaining vacancies ought not to be left unfilled and that the Respondents should have operated the waitlist or issued a further merit list from the pool of eligible EWS candidates. It is urged that the Petitioner is next in line and that refusal to operate the list defeats the notified reservation and offends Articles 14 and 16 of the Constitution.

5. Counsel for the Petitioner has placed considerable emphasis on the Selection Committee report. The report records that documents of 85 candidates were scrutinised and 45 candidates were found eligible. It further records that the Selection Committee recommended 45 candidates for final selection, “including 4 as waitlisted under their respective category”. The Petitioner submits that this document proves that AAI had, in fact, maintained a waitlist/select panel and that vacancies arising on account of non-joining or rejection at the stage of document verification ought to have been filled from that panel.

6. In addition, counsel for the Petitioner places reliance on the Airports Authority of India (Recruitment and Promotion) Regulations, 2020. Particular emphasis is placed on Clauses 15.8 and 15.13. Clause 15.8

¹ “AAI”



prescribes qualifying marks in the written/competitive examination. Clause 15.13 provides that after appointment letters are issued according to availability of vacancies, the names of the remaining candidates in the said list shall be kept for consideration to fill vacancies which may arise in future within one year from the date of approval of the panel by the Appointing Authority, subject to extension for a further period not exceeding six months for reasons to be recorded. On the strength of these clauses, it is urged that since vacancies in the EWS category remained unfilled after document verification, the Petitioner ought to have been issued an appointment letter or, at any rate, ought to have been considered against those vacancies. The relevant clauses are extracted below for ease of reference Clause 15.8 and 15.13 which reads as follows:

xxx	xxx	xxx
15.8.	<i>The qualification marks in the written/competitive exam for various posts shall be 50% marks for General & OBC candidates and 40% marks for SC/ST candidates.</i>	
xxx	xxx	xxx
15.13.	<i>After issue of appointment letters according to availability of vacancies, the names of the remaining candidates in the said list shall be kept for consideration to fill up vacancies which may arise in future within one year from the date of approval of panel by the Appointing Authority subject to its being extended for a further period not exceeding six months for reasons to be recorded in writing by the Competent Authority."</i>	

7. It is also submitted that in other regions and recruitment cycles, AAI issued multiple supplementary lists for document verification. On that basis, it is urged that AAI cannot arbitrarily refuse to adopt the same course in the Northern Region recruitment. According to the Petitioner, once AAI itself follows the practice of issuing supplementary lists, its refusal to do so in the present case is discriminatory and arbitrary.



8. Counsel for the Respondents, appearing on advance notice, opposes the petition. He submits that the Petitioner secured 52 marks, whereas the EWS cut-off was 53. The Petitioner, therefore, did not enter the zone of consideration for document verification. It is submitted that, as per the internal practice, candidates were called for document verification in the ratio of 1.5 times the advertised vacancies. For four EWS vacancies, six candidates were called in the order of merit. The Petitioner did not figure even in that list. The Respondents submit that the Petitioner cannot, through a writ petition, seek lowering of the EWS cut-off from 53 to 52. The further submission is that any vacancy which remains unfilled at the end of the recruitment cycle will be dealt with in accordance with the applicable rules and carried forward to the next recruitment cycle, but the Petitioner cannot claim appointment or further consideration as a matter of right.

9. Having heard counsel and considered the record, this Court finds no ground to entertain the writ petition.

10. The first point which needs to be kept clear is the distinction between minimum eligibility to sit in the examination and the operative cut-off for further progression in the recruitment process. The advertisement prescribed minimum pass marks for categories of candidates. That condition merely determined whether a candidate could be treated as having passed the examination. It did not mean that every candidate who crossed that minimum mark acquired a right to be called for document verification or to be appointed. In a competitive recruitment, the effective cut-off is determined by the number of vacancies, the number of candidates called in the permissible ratio, their *inter se* merit, and the requirements of the recruiting authority.



11. The Petitioner secured 52 marks. The EWS cut-off in the result was 53 marks. The Petitioner was, therefore, below the operative merit line fixed for the EWS category in this recruitment. He was not called for document verification. His name does not appear in the select list. His name also does not appear in the waitlist/select panel. In substance, the relief sought by him would require this Court to direct AAI to bring down the EWS cut-off from 53 to 52 so that he can enter the recruitment stream. That cannot be done in exercise of writ jurisdiction.

12. The Petitioner's reliance on the mere existence of vacancies does not carry the matter any further. The law is settled that the notification of vacancies, or even the availability of vacancies after a recruitment process, does not by itself create an enforceable right to appointment. In ***Shankarsan Dash v. Union of India***,² the Constitution Bench held that a recruitment notification ordinarily amounts to an invitation to eligible candidates to apply and that even a candidate whose name appears in a select list does not acquire an indefeasible right to appointment. The State is not under an obligation to fill every notified vacancy unless the governing rules so require. The only limitation is that the decision not to fill the vacancies must be bona fide and must not be arbitrary.

13. That principle squarely applies to the present case because the Petitioner is neither a selected candidate nor a wait-listed candidate, and was never even called for document verification. His case, therefore, falls outside the approved select and wait-list panel. The mere fact that he obtained marks above the minimum qualifying threshold does not mean that he crossed the operative EWS cut-off for being carried forward in the recruitment process.



If even a selected or empanelled candidate cannot claim an appointment as a right, a candidate who remained below the category-wise cut-off for further consideration certainly cannot assert a stronger right merely because some vacancies may have remained unfilled.

14. The decision in *State of Haryana v. Subash Chander Marwaha*,³ is also apposite. The Supreme Court upheld the decision of the State not to fill all advertised vacancies where the authority chose to maintain a higher standard for appointment. Recruitment to public posts is not a mechanical exercise of filling seats. The employer is entitled to maintain the merit standard considered appropriate for the post, subject always to the constitutional discipline of fairness and non-arbitrariness. A writ court cannot compel the recruiting authority to dilute the merit line or lower the operative cut-off merely because vacancies exist.

15. The Petitioner's argument based on the waitlist/select panel also fails on the record. The Selection Committee report does refer to four waitlisted candidates. However, those four candidates belong to UR/ESM and SC categories. No EWS candidate is shown in the waitlist/select panel. The Petitioner's name is absent. This Court cannot direct the Respondents to create an EWS waitlist. That would not be "operation" of an existing waitlist. It would amount to expansion of the selection zone and lowering of the cut-off after publication of result.

16. The reliance placed on Clauses 15.8 and 15.13 of the Airports Authority of India (Recruitment and Promotion) Regulations, 2020 does not improve the Petitioner's case. Clause 15.8 only prescribes the minimum

² (1991) 3 SCC 47

³ (1974) 3 SCC 220



qualifying marks in the written or competitive examination. A minimum qualifying mark is not the same thing as the category-wise cut-off fixed by the movement of merit against the notified vacancies. The former determines whether a candidate has cleared the basic threshold of the examination. The latter determines whether he enters the zone of further consideration in a competitive selection. A candidate who crosses the minimum qualifying mark does not, on that ground alone, acquire a right to be called for document verification, much less a right to appointment.

17. The Petitioner secured 52 marks. The operative EWS cut-off was 53. The Petitioner, therefore, remained below the merit line at which EWS candidates were carried forward in the recruitment process. To accept his submission would require the Court to treat the minimum qualifying marks as the decisive standard and to disregard the actual cut-off generated by the recruitment. There is no service law principle that compels this Court to direct the employer to lower the category-wise cut-off merely because vacancies have remained unfilled after document verification.

18. Clause 15.13 also operates in a different field. It begins with the words “after issue of appointment letters according to availability of vacancies” and then speaks of “the names of the remaining candidates in the said list” being kept for consideration for future vacancies within the life of the panel. The clause, therefore, presupposes three things: first, an approved list or panel; second, issue of appointment letters from that list according to available vacancies; and third, remaining candidates in that very list who may be considered if vacancies arise within the stipulated period. It does not authorise the recruiting authority, much less the Court, to create a new list by descending below the declared cut-off.



19. The Petitioner's argument also proceeds on a conflation of two distinct stages. A notice for document verification is not an appointment letter. A candidate called for document verification has no right to appointment unless his documents are found in order and he otherwise satisfies the recruitment conditions. If, after document verification, only two candidates were found fit and were issued appointment letters, Clause 15.13 does not, by itself, compel AAI to call candidates who had never entered the approved panel. The clause may have had relevance if candidates forming part of an approved panel had been issued appointment letters and some of them did not join, leaving other approved panel candidates available within the life of the panel. That is not the factual position pleaded by the Petitioner.

20. The Selection Committee report, in fact, weakens rather than strengthens the Petitioner on this point. It records an approved recommendation of 45 candidates, including 4 waitlisted candidates. Those waitlisted candidates are shown against UR/ESM and SC categories. No EWS candidate appears in the waitlist/select panel. The Petitioner's name is absent not only from the select list, but also from the waitlist. Clause 15.13 cannot be read to insert his name into a panel of which he was never a part.

21. The reliance on ***Dinesh Kumar Kashyap v. South East Central Railway***,⁴ is also misplaced. In that case, the governing Railway Board circular itself contemplated an extra replacement panel, and the appellants were candidates within that replacement zone. The employer had failed to implement its own policy without a cogent reason. The Supreme Court intervened in that factual setting. The present case is materially different.



The Petitioner is not within an EWS replacement panel. He was not part of the candidates called for document verification in the 1.5-times ratio. There is no shown rule or binding instruction which obliges AAI to move below the EWS cut-off and call candidates who had not entered the document verification zone.

22. The documents relating to other regions of AAI do not create an enforceable right in favour of the Petitioner. Those documents pertain to different advertisements, different posts, different regions, different years and different category-wise cut-offs. They may show that supplementary lists have been issued in some recruitments where the authority considered it administratively appropriate. They do not establish a uniform legal mandate that in every recruitment and in every region AAI must continue lowering the cut-off until every advertised vacancy is filled. Article 14 does not require mechanical repetition of an administrative course adopted in a distinct recruitment. It forbids hostile discrimination, not reasoned administrative variation.

23. There is no allegation that a candidate lower in merit than the Petitioner has been called or appointed. There is no case of pick and choose. There is no pleading of mala fides. The Petitioner's complaint is, at its highest, that vacancies should not be carried forward and should instead be filled by descending below the declared EWS cut-off. Such a direction would place the Court in the position of the recruiting authority. That is not the function of judicial review.

24. The advertisement itself made the vacancies tentative and reserved to AAI the right to modify, restrict, enlarge or cancel the recruitment process.

⁴ (2019) 12 SCC 798



It also made clear that selection was provisional and subject to verification of documents and other requirements. These clauses do not give the employer a licence to act unfairly, but they do reinforce the settled position that a candidate cannot insist that every advertised vacancy must be filled in the same recruitment irrespective of merit cut-off, document verification outcome, panel structure or administrative closure of the process.

25. The Petitioner's submission that unfilled EWS vacancies should not be wasted is attractive at first sight, but it cannot override the discipline of a competitive recruitment. Reservation ensures opportunity in accordance with law. It does not authorise appointment of a candidate who has not crossed the operative cut-off fixed for the category. If vacancies remain unfilled after the recruitment cycle, the Respondents must deal with them in accordance with the applicable reservation framework and recruitment rules. That may include carrying them forward, if permissible. It does not follow that the Court must compel AAI to call the Petitioner by lowering the cut-off.

26. If the cut-off is to be lowered from 53 to 52, the process cannot be confined to the Petitioner merely because he has approached the Court. All candidates similarly placed at 52 or in the next zone of merit would then have to be considered in accordance with the recruitment norms. The Court cannot design a fresh supplementary selection at the instance of one unsuccessful candidate, particularly when no statutory rule, advertisement clause or binding policy requiring such exercise has been shown to exist.

27. The relief sought is therefore not a limited direction to operate an existing panel. It is, in substance, a prayer to extend the recruitment beyond the declared cut-off and to create a further zone of consideration. Such a



direction would unsettle the recruitment process and would trench upon matters reserved for the recruiting authority. In the absence of arbitrariness, *mala fides*, violation of a statutory rule, or appointment of a lower-merit candidate, no writ of mandamus can issue.

28. For these reasons, this Court is not persuaded to entertain the petition.

29. The petition is dismissed. Pending applications, if any, stand disposed of.

SANJEEV NARULA, J

MAY 8, 2026/ab