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

+ **W.P.(C) 7880/2018**

**ASHUTOSH KUMAR**

.....Petitioner

Through: Mr. Ajay Kumar Singh, Mr. Yatharth Singh and Ms. Shrishti Gautam, Advocates.

versus

**NATIONALS SCHEDULED CASTES FINANCE AND DEVELOPMENT CORPORATION**

.....Respondent

Through: Mr. Rakesh Sinha, Mr. Md. Ghulam Akbar, Mr. Jeemon Raju K. & Ms. Suman Lata, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

**03.02.2026**

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1. This writ petition under Article 226 of the Constitution assails the decision of National Scheduled Castes Finance and Development Corporation (NSFDC or “the Corporation”) of not selecting the Petitioner to the post of Manager (Information Technology), pursuant to the recruitment process initiated through the vacancy notification published in Employment News dated 19<sup>th</sup> August, 2017 to 25<sup>th</sup> August, 2017. The Petitioner seeks, in substance, a direction to set aside the decision of non-selection and to appoint him to the said post.

*Facts in brief*

2. The vacancy notification advertised, *inter alia*, one post of Manager (IT) in the E-3 level (Group ‘A’) in the middle managerial cadre of the Corporation. The “Mode of Selection” clause stipulated that selection to the posts of Chief Managers and Managers would be through an online written test followed by interview, and that appointment would be issued on the



basis of “order of merit” in the online written test and interview.

3. The Corporation received five online applications for the post of Manager (IT) by the closing date, 15<sup>th</sup> September, 2017. An online written examination was conducted on 13<sup>th</sup> October, 2017 through an independent agency, namely the Institute of Banking Personnel Selection (IBPS), Mumbai. Only three candidates appeared.

4. As per the Corporation, candidates securing 33% marks and above in the written examination were to be called for the interview. On that basis, only the Petitioner, having secured 85.86 marks out of 250 (34.34%), was called for interview held on 19<sup>th</sup> February, 2018.

5. The interview was conducted by a Selection Committee comprising six members, including senior officers representing reserved categories and women, and two external experts. One external expert was from the National Informatics Centre (NIC) with domain expertise in IT. The interview carried 44 marks (15% weightage), while the written test carried 250 marks (85% weightage), making a total of 294 marks.

6. The Petitioner was awarded 8 marks out of 44 in the interview (18.18%). His aggregate thus stood at 93.86 out of 294, that is 31.93%. The Corporation asserts that the minimum required aggregate score for a Group ‘A’ post of Manager (E-3) was 33%, and since the Petitioner fell below that threshold, the Selection Committee found him “not suitable”. The competent authority accepted that recommendation. The post remains vacant.

7. By communication dated 5<sup>th</sup> August, 2018, the Corporation informed the Petitioner of these details and the basis for non-selection. The Corporation also recorded, in the same communication, that at the stage of document scrutiny it noticed a discrepancy in the Petitioner’s claim of PwD



(Low Vision) status, inasmuch as the disability certificate produced indicated 20% disability whereas the online application reflected 40%.

### *Submissions*

8. The Petitioner makes the following submissions in support of the reliefs sought:

8.1. He satisfies the essential qualifications and experience prescribed for the post and, on that basis, was admitted to the selection process.

8.2 Five candidates applied, three appeared in the online written examination, and he alone was called for interview. The Petitioner being the only candidate found eligible to be interviewed, coupled with the fact that the post has remained vacant even thereafter, reinforces that the process ought to have culminated in his appointment. The Corporation could not have treated the interview as a device to defeat a selection process that had otherwise found him fit to be considered.

8.3 The selection criteria is arbitrary and contrived. No minimum aggregate benchmark was disclosed in the advertisement. The only disclosed criteria was that selection would be through online written test followed by interview and that appointment would be on the basis of “order of merit” in those components. In the absence of an explicit qualifying benchmark, the Corporation could not introduce a cut-off after the examination and interview had taken place.

8.4 The Selection Committee travelled beyond the remit of the notified process. Once the written examination was treated as the principal filter and the Petitioner was called for interview as the sole qualifying candidate, the interview could only test suitability of the candidates. It could not be used to superimpose an undisclosed disqualifying threshold that nullifies the process



and renders the earlier exercise otiose. The Committee could not, by its own assessment, set a “minimum required score” at the final stage unless such a condition was part of the advertised rules or duly notified recruitment rules placed on record.

8.5 No weightage was accorded to Petitioner’s past experience, although he has substantial work exposure in the relevant field. For a managerial post in IT, practical experience is central, and a selection that effectively reduces the decision to a low interview score, without an explanation is plainly arbitrary. The interview marks (8 out of 44) are *ex facie* disproportionate and have been assigned without disclosing any objective criteria, marking rubric, or interview record reflecting evaluation parameters, rendering the decision vulnerable to challenge under Article 14.

8.6 The criteria governing selection cannot be altered midstream or at the end of the process, as that would amount to changing the rules of the game. Reliance is placed on the judgements in ***Hemani Malhotra v. High Court of Delhi***,<sup>1</sup> and the subsequent reaffirmation of that principle in ***Sureshkumar Lalitkumar Patel v. State of Gujarat***,<sup>2</sup> to contend that an advertisement binds the recruiting body and any qualifying norms must be declared upfront. A post facto benchmark is arbitrary, introduces uncertainty, and permits unguided discretion.

8.7 The Corporation’s averments regarding his PwD declaration are being pressed only as a justificatory afterthought. Petitioner maintains that any discrepancy in stating “40%” disability in the online form as against a certificate reflecting “20%” was a bona fide mistake and not deliberate. He

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<sup>1</sup> (2008) 7 SCC 11

<sup>2</sup> (2023) 19 SCC 596



has not claimed or derived any advantage under the PwD category in this process. The Corporation cannot deflect scrutiny from the core illegality in selection by relying upon an alleged clerical mistake which did not confer any tangible benefit in the recruitment.

8.8 On the overall conspectus, the non-selection is arbitrary, opaque, and founded on undisclosed norms. The decision declaring him “not suitable” should be quashed and Petitioner should be appointed to the post of Manager (IT), or in the alternative, a direction be issued to redo the interview/selection on clearly declared and lawful criteria.

9. On the other hand, the Respondent makes the following submissions opposing the present petition:

9.1 The selection process was conducted strictly in accordance with the mode of selection notified in the vacancy advertisement and the governing (NSFDC) Recruitment, Promotion And Seniority Rules, 2016<sup>3</sup> applicable to Group ‘A’ posts.

9.2 The post of Manager (IT) is a Group ‘A’ post in the E-3 level in the middle managerial cadre, carrying significant responsibilities and requiring domain competence, decision-making ability, and communication skills. The recruiting body is therefore entitled, and indeed obligated, to ensure that only suitable candidates are appointed to such a position.

9.3 The online application handling, scrutiny, and conduct of the written examination were entrusted to an independent agency, IBPS, Mumbai, thereby insulating the written examination stage from any allegation of internal manipulation.

9.4 In terms of the Corporation’s recruitment framework for Group ‘A’



posts, 85% weightage is allotted to the written examination and 15% to the interview. For the post of Manager (IT), the written examination carried 250 marks and the interview carried 44 marks, totalling 294.

9.5 On receipt of the written examination results from IBPS, only those candidates who secured 33% and above in the written test were called for interview. Of the three candidates who appeared, only the Petitioner secured 34.34% and was, therefore, the sole candidate called for interview. The fact that the Petitioner was the only interviewee, however, does not translate into an enforceable right to appointment. Selection entails an assessment of suitability; if the candidate fails to meet the minimum benchmark, the employer may lawfully decide to keep the post unfilled.

9.6 The interview was conducted by a duly constituted Selection Committee comprising six senior members in line with Government guidelines, including reserved categories, minority, and women representation. Two external experts were also included, one being a domain expert from NIC. The Respondent submits that this Committee structure itself demonstrates institutional safeguards and expertise, and the marking was done by the Committee members independently, with the final interview score being the average.

9.7 The Committee assessed the Petitioner on domain knowledge in IT, communication skills, general awareness, and his understanding of the objectives and work of the Corporation, including his reasons for seeking the position. On that assessment, the Petitioner scored 8 marks out of 44 in the interview (18.18%). When combined with the written score, his aggregate was 93.86 out of 294, that is 31.93%, which is below the

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<sup>3</sup> “governing rules”



minimum required benchmark of 33% for a Group ‘A’ managerial post. On that basis the Selection Committee found him “not suitable” and recommended that he not be appointed.

9.8 The Petitioner’s challenge essentially invites the Court to reassess interview performance and substitute its own view for the Selection Committee which is impermissible in writ jurisdiction. Suitability in interview is a matter of expert assessment and the Court does not sit as an appellate body over marks awarded, absent proof of mala fides, bias, extraneous considerations, or a patent procedural violation.

9.9 The Petitioner’s grievance that the minimum benchmark was “not mentioned” in the advertisement is misconceived. The mode of selection clause clearly indicated written examination followed by interview and selection based on merit in those components. A merit-based scheme necessarily presupposes suitability standards and minimum benchmarks for managerial posts. In any event, the same benchmark operated at the stage of calling candidates to interview, and the Petitioner himself benefited from that benchmark as the sole candidate called. There is no midstream change and the Petitioner merely failed to secure the minimum standard in the interview and in the aggregate.

9.10 The “General Information” clause in the advertisement clearly warned that incorrect information and/or process violations detected at any stage would lead to disqualification and even retrospective cancellation if detected subsequently. The Petitioner declared a visual disability percentage of 40% in the online application, whereas the disability certificate produced at scrutiny indicated 20% low vision. Under Government norms, PwD benefit in low vision is admissible only at 40% impairment and above. This



amounts to incorrect information on a material aspect, contrary to the declaration given by the candidate, and is sufficient in itself to disentitle the Petitioner from discretionary relief.

9.11 The Corporation acted transparently and fairly. The Petitioner's representations and RTI applications were responded to with details of his marks and the reasons for non-selection. There is no arbitrariness, and the petition is an attempt to convert participation in a selection process into a right to appointment, which the law does not recognise.

9.12 Reliance is placed upon decisions including *Union of India v. Mahendra Singh*<sup>4</sup> and *State of Rajasthan v. Chetan Jeff*<sup>5</sup> to submit that incorrect declarations in recruitment processes have serious consequences and courts should not grant relief that undermines the integrity of recruitment

#### *Issues*

10. The petition, on the above pleadings, throws up three questions:

10.1. whether the Corporation unlawfully introduced a fresh, undisclosed "33% minimum aggregate" criterion at the end of the process;

10.2. whether the Petitioner, being the only candidate called for interview, acquired any enforceable right to appointment; and

10.3. whether, on the overall record, the decision of non-selection warrants interference in writ jurisdiction.

#### *Analysis*

11. The settled limits of judicial review in recruitment must be kept in view at the threshold. A writ court examines legality, procedural fairness,

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<sup>4</sup> 2022 SCC OnLine SC 909

<sup>5</sup> (2022) 19 SCC 366



and adherence to the governing framework. It does not sit in appeal over comparative merit, nor does it substitute its own assessment for that of an expert selection body, unless the process is shown to be vitiated by mala fides, patent arbitrariness, or a demonstrable breach of binding norms. ***Shankarsan Dash v. Union of India***<sup>6</sup> reiterates the governing discipline: selection does not create an indefeasible right to appointment, and the assessment of suitability lies primarily with the employer.

12. The Petitioner's submission that the insistence on a minimum aggregate of 33% introduced a new eligibility condition midstream is misconceived. The advertisement prescribed a two-stage selection consisting of written test followed by interview, with appointment to be made on order of merit in the combined assessment. It did not promise appointment upon mere participation in the interview, nor did it stipulate that any candidate securing positive marks would necessarily be appointed.

13. The Court also takes note of the Constitution Bench judgment in ***Tej Prakash Pathak v Rajasthan High Court***,<sup>7</sup> which is relevant to the present controversy. The decision clarifies that while eligibility criteria cannot ordinarily be altered once the recruitment process commences, the same inflexibility does not automatically extend to the manner of evaluation or fixation of a suitability benchmark, provided the change does not introduce arbitrariness or violate the governing framework. The Selection Committee merely applied a threshold to determine whether the candidate before it met the minimum acceptability for appointment, which the employer was entitled to insist upon. The benchmark thus operated only as a minimum

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<sup>6</sup> (1991) 3 SCC 47

<sup>7</sup> 2024 INSC 847



standard of suitability at the final stage of selection and was applied uniformly. The process was not recast.

14. ***Tej Prakash Pathak*** cautions that if a benchmark is to operate at a particular stage of recruitment it ought ordinarily to be fixed before that stage is reached, so that neither candidates nor evaluators are taken by surprise. However, that principle is attracted only where a new qualifying parameter or altered criterion is introduced midstream. No such situation arises here. The governing Rules prescribed a combined assessment with 85% weightage to the written test and 15% to the interview, and that structure remained unchanged throughout. The marking scheme was known and applied uniformly. The 33% aggregate functions only as a minimum threshold of overall suitability within the declared framework; it does not create a new stage or alter the evaluative criteria. There is no “surprise” of the kind contemplated in ***Tej Prakash Pathak***.

15. Similarly, the court also places reliance on the decision in ***Yogesh Yadav v. Union of India***<sup>8</sup> which concerned the fixation of an overall merit benchmark after the written test and interview had been held. In the said case, the advertisement contemplated selection by a written test (80 marks) and an interview (20 marks) and prescribed only minimum qualifying marks for the written test. It did not stipulate any aggregate cut-off for final selection. After completion of both stages, the employer fixed an aggregate benchmark (70% for unreserved candidates and 65% for reserved candidates), with the result that certain candidates who had met the written-test minimum were not selected. The challenge, founded on the plea that this altered the “rules of the game” midstream, was rejected. The Supreme Court



held that the method of selection remained written test plus interview and that no fresh qualifying cut-off was introduced at the interview stage. The aggregate benchmark was treated as a permissible device to restrict appointment to candidates meeting a higher overall standard of merit. ***Hemani Malhotra*** and ***K. Manjusree*** were distinguished.

16. In ***Yogesh Yadav***, the Court also emphasised that, absent any statutory compulsion to appoint all candidates who merely meet minimum eligibility, the employer may prescribe a higher overall benchmark to secure efficiency and maintain standards in service. Where such benchmark is applied uniformly and is not shown to be tainted by mala fides, it does not attract the charge of arbitrariness and does not offend Articles 14 or 16 of the Constitution.

17. The present case stands on analogous footing. The method of selection remained constant: written examination, followed by interview, with merit drawn from the combined score. The 33% aggregate does not introduce a new eligibility requirement or a separate interview cut-off. It functions as a minimum threshold of overall suitability within the declared composite evaluation.

18. Nor is this a case of a benchmark being devised after the event to exclude a particular candidate. The record shows that 33% operated at the shortlisting stage itself, since only candidates securing 33% and above in the written test were called for interview. The Petitioner entered consideration on that basis. The insistence on a 33% aggregate at the final stage is therefore a continuation of an existing minimum-performance standard, not the introduction of a new disqualifying condition at the end of the process.

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<sup>8</sup> (2013) 14 SCC 623



19. The reliance on *Hemani Malhotra* and *K. Manjusree* is misplaced. Those cases involved the introduction of a minimum qualifying cut-off for a stage where none had been prescribed earlier, thereby shifting the criteria after participation. Here, there was no such alteration. The selection framework remained the same, and the 33% aggregate operated only as a minimum standard of suitability within the declared composite assessment.

20. The fact that the 33% aggregate was not expressly mentioned in the advertisement does not, by itself, vitiate the selection. The governing rules prescribed a combined assessment with 85% weightage to the written test and 15% to the interview, and that structure was scrupulously adhered to. The aggregate benchmark neither introduced a new stage nor altered eligibility; it operated within the declared 85:15 framework as a minimum standard of overall suitability.

21. The character of selection to a Group 'A' managerial post must be kept in view. The appointing authority is not bound to fill a vacancy irrespective of suitability. A duly constituted Selection Committee, comprising members with relevant expertise and acting within the governing regulations, is entrusted with assessing comparative merit and suitability. In that setting, it is permissible to adopt a rational and uniform marking methodology, including a minimum benchmark for appointment, provided it does not rewrite eligibility, introduce a fresh stage of selection, or operate in an arbitrary or discriminatory manner. On these parameters, the benchmark cannot be described as a change in the "rules of the game"; it is only a uniform standard applied within the declared selection framework.

22. Pertinently, Rule 12(B) of the governing Rules expressly provides that the Selection Committee shall assess the suitability of candidates on the



basis of their qualifications, professional knowledge, experience and performance in interview and/or tests, and recommend a select list in order of merit. The Rule thus vests the Committee with evaluative discretion to determine comparative merit and suitability, and does not reduce the process to a mechanical tabulation of marks. The prescription of a minimum aggregate standard operates within this statutory mandate. It neither alters eligibility nor modifies the selection structure; it merely reflects the Committee's assessment of the level of performance considered adequate for recommendation in order of merit. The exercise, therefore, falls squarely within the authority conferred by Rule 12(B).

23. Assessment of merit and suitability, including interview performance, lies primarily with the duly constituted Selection Committee. A writ court does not sit in appeal over marks or re-evaluate suitability unless the process is shown to be tainted by mala fides, bias, manifest perversity, or breach of an essential norm. Here, the Petitioner secured 8 out of 44 in the interview. That score supports the Committee's conclusion that he did not meet the level of competence and suitability expected for an E-3, Group 'A' post. In the absence of any cogent plea or proof of bias or extraneous motive, the interview assessment cannot be reopened merely because the Petitioner claims he deserved higher marks.

24. The purpose of selection is to identify the most suitable candidate, not to appoint merely because someone is eligible. Even where only one candidate reaches the interview stage, the Selection Committee is entitled to assess whether that candidate meets the minimum level of suitability for the post. The fact of being the sole interviewee cannot compel appointment, since that would remove the distinction between eligibility and suitability



and make the interview a formality. In any event, the call letter dated 25<sup>th</sup> January, 2018 made it clear that the interview call did not constitute any commitment to appoint. The Petitioner participated with notice of that position; no enforceable right to appointment could arise solely because he was the only candidate called for interview.

25. The Petitioner's emphasis on experience also does not advance the case. Experience is an eligibility condition and a factor that may contribute to performance. It does not replace performance. Once the selection is structured as a written test plus interview, experience does not automatically translate into marks unless the rules expressly provide for such weightage. No such provision has been pointed out.

26. In view of the above conclusions, it is not necessary to render a determinative finding on the issue relating to the Petitioner's declaration of PwD status. Suffice it to observe that accuracy of disclosures in recruitment processes is of material significance. However, since the non-selection stands justified on independent grounds of suitability, this Court does not rest its decision on that aspect.

27. For these reasons, no ground is made out to invoke writ jurisdiction to compel appointment or to set aside the non-selection decision.

**Conclusion**

28. The writ petition is dismissed. Pending applications, if any, also stand disposed of.

**SANJEEV NARULA, J**

**FEBRUARY 3, 2026/ab**