

Sukhmander Singh and Ors Etc.

v.

The State of Punjab and Ors Etc.

(Civil Appeal No(s). 1511-1513 of 2021)

11 September 2024

**[Hrishikesh Roy,* Sudhanshu Dhulia and
S.V.N. Bhatti, JJ.]**

Issue for Consideration

Issue arose as to whether the criteria on the basis of which selection was made could be made the legal basis for selection and appointment of Laboratory Attendants.

Headnotes[†]

Service law – Selection/appointment – Post of laboratory attendants – Selection process for 31 vacancies – 1,952 candidates shortlisted for interview after the written test – Publication of final select list – Challenge to, by the unsuccessful candidates – Single Judge annulled the selection process observing that the process was irregular and lacked transparency – However, the Division Bench held that the selection process was not mala fide or biased, a fresh list should be compiled by the Board, deducting 5 marks previously awarded to candidates belonging to rural areas – Sustainability:

Held: In a recruitment process where there are only 31 posts up for grabs, subjecting an excessively large number of candidates, 63 times the number of vacancies to the interview stage, would inevitably lead to a situation where even those candidates, who may have performed very poorly in the written test, are granted an unfair shot at appointment and many more qualified candidates are potentially overlooked – Thus, limiting the number of candidates for the *viva voce* segment becomes essential for several reasons – It enhances the efficiency of the selection process by providing for a more thorough and fair evaluation of each candidate – By restricting the number of candidates, the process becomes more transparent and less susceptible to allegations of favouritism or bias – Thus, it ensures that only the most qualified candidates, based on an objective criterion, proceed to the stage of

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an interview, helping maintain the integrity of the process, upholding principles of meritocracy and reducing chances of oversight – Impugned judgment can be sustained only to the limited extent of eliminating marks awarded for the rural area criteria – Thus, the direction given by the Single Judge to commence the selection from the stage of written test, upheld – Candidates only up to five times the number of vacancies to be permitted to appear in the next segment of the recruitment test-interview – Candidates should be evaluated on a total of 100 marks, of which 50 marks would be awarded on the basis of a written examination – From the balance, 20 marks should be awarded on the basis of the candidate's performance in an interview, 15 marks on the basis of knowledge of scientific practical equipment, 10 marks on the basis of academic qualifications and 5 marks on the basis of experience – Waiting list of 10 beyond the 31 notified vacancies to be prepared, if any vacancy remains unfilled from amongst the 31 in order of merit in the list, those vacancies can be filled up in order of merit from the waitlisted candidates – Thus, fresh selection exercise to be carried out in terms of the said directions.

[Paras 17-20, 23-25]

Case Law Cited

Abhishek Rishi v. State of Punjab & Ors. (2013) SCC OnLine P&H 6980 – referred to.

List of Keywords

Selection; Selection and appointment of Laboratory Attendants; Interview stage; Efficiency of selection process; Fair evaluation; Integrity of the process; Principles of meritocracy; Chances of oversight; Elimination of marks awarded for rural area criteria; Written test.

Case Arising From

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 1511-1513 of 2021

From the Judgment and Order dated 20.07.2016 of the High Court of Punjab & Haryana at Chandigarh in LPA No. 1381 and 856 of 2014 and LPA No. 804 of 2015

With

Civil Appeal No. 1514 of 2021

Digital Supreme Court Reports**Appearances for Parties**

Sanjoy Ghosh, Sr. Adv., Vijay Kasana, Mrs. Chetna Singh, Chirag Verma, Ankit Kumar, Ashish Tanwar, Mrs. Smita Bankoti, Devendra Singh, Ashish Sheoran, Karan Thakur, Ms. Diva Singh, Shubhranshu Padhi, Advs. for the Appellants.

Avishkar Singhvi, Siddhant Sharma, Akash Alex, Praful Bhardwaj, P.S. Khurana, Vibhuti Sushant Gupta, Ram Naresh Yadav, Nitin Bhardwaj, Himanshu Sharma, Ram Niwas Sharma, Sandeep Singh, Mrs. Aditi Sharma, Arun Kumar, Lokesh Solanki, Advs. for the Respondents.

Judgment / Order of the Supreme Court**Order****Hrishikesh Roy, J.**

1. Heard Mr. Sanjoy Ghosh, learned Senior Counsel along with Mr. Vijay Kasana, learned counsel appearing for the Appellants. Also heard Mrs. Smita Bankoti, learned counsel for the appellants in the connected appeal. The Punjab School Education Board (PSEB) is represented by Mr. P.S. Khurana, learned counsel. The State of Punjab is represented by Mr. Avishkar Singhvi, learned counsel.

Factual Matrix: How We Reached Here

2. This matter pertains to the 31 vacancies that arose on the post of Laboratory Attendants, pursuant to an advertisement issued on 27.04.2011 by the PSEB. The eligibility criteria to apply for the said vacancies were that the candidate must have qualified 10th standard with Science & Punjabi as subjects. A total number of 4,752 applicants applied for these posts. As part of the initial screening, a preliminary written test was conducted on 28.09.2011, on the basis of which a total of 1,952 candidates were shortlisted as per the determined benchmark cut-off score.
3. These shortlisted candidates were subsequently called for the next segment of the selection process i.e., the interview stage. Due to the sheer number of candidates, interviews were conducted over multiple dates, culminating in the completion of the selection exercise. Thereafter, a final list of selected candidates was published on 04.04.2012.

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4. Several unsuccessful candidates, aggrieved by their exclusion from the final list dated 04.04.2012, then moved the High Court of Punjab & Haryana at Chandigarh by filing different Writ Petitions, challenging the final list of selected candidates dated 04.04.2012 and seeking directions to conduct the same afresh. These aforementioned Writ Petitions were disposed of by a common judgment dated 31.10.2012. The learned Single Judge, *inter alia*, concluded that the process of selection did not inspire confidence and accordingly, set aside the entire selection process and directed for these posts to be re-advertised by the PSEB. However, this judgment was assailed by the aggrieved parties, following which the Division Bench on 29.05.2013, remitted the matter back, observing that the selected candidates were to be heard and the matter be decided afresh by the Single Judge.

Annulment of Selection Process by the Single Judge

5. As per the directions of the Division Bench, the matter was heard afresh by the learned Single Judge. Upon reconsideration, it was observed that the appointment process was marred by irregularities and lacked transparency, with no rules or instructions specifying the criteria adopted for shortlisting candidates for the interview stage. In fact, no material had been placed on record and no deliberations made by the Selection Committee made available, to demonstrate the criteria fixed for shortlisting candidates for the next stage i.e., the interview. Further, the learned Single Judge further held that shortlisting candidates to the extent of 63 times the number of vacancies was not justified either.
6. The learned Judge observed that several candidates that had been shortlisted for the interview stage had secured very low marks in the written test, and were therefore low on merit. This revealed a disparity in the selection process as no merit list was prepared on the basis of the written test results either.
7. The Court noticed the pattern of marks awarded for practical experience and interview for posts where the eligibility criterion was only matriculation. Awarding marks on these criteria would naturally depend on the subjective satisfaction of the members of an Interview Board, and therefore, vitiate part of the selection process as well. However, considering the fact that scrapping the entire selection process might prejudice those who had applied and subsequently

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became over-aged and the fact that the written test for shortlisting was found to have been carried out in a *bona fide* manner, the learned Single Judge noted that candidates should be shortlisted as per the marks scored in the written examination to the extent of five times the number of vacancies, with marks assigned for qualification, experience, knowledge of science practical equipments and interview in such a proportion that they are not more than 1/3rd of the total marks.

8. Therefore, the learned Single Judge set aside the selection while directing the PSEB to publish a revised selection list i.e., to participate in a limited fresh exercise as per the following directions:

- (i) Candidates five times the number of vacancies be called for second stage of selection in the order of merit as per the test conducted for shortlisting of candidates.
- (ii) The minimum marks can still be prescribed even if the result is that some vacancies remain unfilled as the same is in the interest of general merit [Reference S. Vinod Kumar's case (*supra*)].
- (iii) The criteria for award of marks for rural area is set aside.
- (iv) The marks assigned for qualification, experience, knowledge of science practical equipments and interview should be in such proportion that marks for knowledge of science practical equipments and interview are not more than 1/3rd of the total marks."

Division Bench's Reversal: Selection Not Mala Fide

9. The Division Bench, vide the impugned judgment dated 20.07.2016, opined that the entire selection process need not be disturbed. The Bench observed that the interviews were conducted elaborately over 19 days to determine the suitability of candidates. It further noted that inviting candidates 63 times the number of posts for the interview stage did not constitute an error fatal enough to vitiate the entire selection process. Additionally, it was noted that the criteria for shortlisting candidates to the extent of 3-5 times the number of vacancies was not a rigid or mandatory criterion either.

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10. It was also noted that the adopted selection criteria did not allocate 50 marks solely for the interview component but instead, consisted of a broad range of evaluative criteria (academic qualifications, knowledge of science practical equipment, rural areas, et cetera) as well. In fact, the interview aspect only consisted of 20 marks, and therefore, was not on the higher side.
11. On the question of awarding 5 marks to candidates belonging to rural areas, both the Single Judge and the learned Division Bench were of the same view that awarding such marks on the basis of the residence of the candidates would be legally impermissible. Such a conclusion was drawn on the basis of the ratio in a Full Bench judgment of the Punjab & Haryana High Court, *Abhishek Rishi v. State of Punjab & Ors.*, 2013 SCC OnLine P&H 6980.
12. Accordingly, the Division Bench, having acknowledged that the selectees had already worked for about 5-6 years with some of them having become over-aged as well, opined that since the selection process was not *mala fide* or biased, a fresh list should be compiled by the PSEB. This revised list would necessitate the deduction of the 5 marks previously awarded to candidates for belonging to rural areas, on the basis of which appointments should be made.

Discussion & Conclusion

13. Various submissions made by the learned counsels for the parties have been considered. Essentially, the question here is whether the criteria on the basis of which selection was made could be made the legal basis for selection & appointment of Laboratory Attendants or not.
14. Admittedly, the advertisement dated 27.04.2011 indicated that shortlisting of candidates should be done on the basis of merit. However, the Order of the Chairman of the PSEB dated 11.10.2012 (Annexure P-3) indicates that all candidates obtaining 33.3% marks i.e., meeting the 20 marks' cut-off benchmark, were declared eligible for the interview. Therefore, no weightage was given for marks contained in the written test. Instead, the selection was made on the basis of the following criteria:

"CRITERIA FOR THE SELECTION OF LAB ATTENDANTS

- (i) Academic qualifications: Matriculation
 - a) 1st Division 05 marks

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- b) 2nd Division 03 marks
- c) 3rd Division 02 marks

Supporting Qualifications/Activities:

- a) Rural Area 05 marks
- b) Knowledge of Science Practical Instrument 15 marks

(ii) Experience:

- 1 year 01 marks
- 2 years 02 marks
- 3 years 03 marks
- 4 years 04 marks
- 5 years 05 marks

(iii) Interview Marks: 20

Grand Total: (i) + (ii) + (iii) = 50"

15. Therefore, the merit of the candidates was to be assessed on the cumulative score of 50. These aforesaid criteria, however, were not specified in any rules or instructions. In fact, the said criteria came to be adopted only when the interviews were to be held.
16. It must be noted that despite the fact that records were called for by the Single Judge, the PSEB was unable to produce any material to show that the criteria for selection had been decided upon, prior to the onset of the entire selection process. Therefore, the learned Single Judge concluded, on the basis of file notings that were produced before him, that the selection criteria had been fixed only on the date when interviews were to commence, i.e., after the result of the written test had already been declared.
17. In fact, it is also equally important to note that no deliberations in the form of minutes of the meeting by the Selection Committee have been made available either, to prove that the PSEB fixed a criterion of selection before the entire process had commenced. On the contrary, it is apparent that the criteria decided upon i.e., a benchmark eligibility cut-off of 33%, to call candidates for the interview stage was made after the entire process had begun, tailor-made and did not have any nexus with the object sought to be achieved i.e., shortlisting candidates on the basis of merit either.

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18. We must bear in mind that the marks secured by candidates in the written test were not considered or given any weightage for such selection either. Additionally, in a recruitment process where there are only 31 posts up for grabs, subjecting an excessively large number of candidates (in this case, 63 times the number of vacancies) to the interview stage, would inevitably lead to a situation where even those candidates, who may have performed very poorly in the written test, are granted an unfair shot at appointment and many more qualified candidates are potentially overlooked.
19. In such a scenario, therefore, limiting the number of candidates for the *viva voce* segment becomes essential for several reasons. Firstly, it enhances the efficiency of the selection process by providing for a more thorough and fair evaluation of each candidate. Secondly, by restricting the number of candidates, the process becomes more transparent and less susceptible to allegations of favouritism or bias. Consequently, it ensures that the only the most qualified candidates, based on an objective criterion, proceed to the stage of an interview, helping maintain the integrity of the process, upholding principles of meritocracy and reducing chances of oversight.
20. In light of these considerations, the impugned judgment (dated 20.07.2016) can be sustained only to the limited extent of eliminating marks awarded for the rural area criteria. Therefore, we are of the view that the direction given by the learned Single Judge to commence the selection from the stage of written test, deserves our approval.
21. Accordingly, candidates only up to five times the number of vacancies should be permitted to appear in the next segment of the recruitment test i.e., the interview. The direction given in Clause (iv.) of Para 37 in the judgment of the learned Single Judge dated 20.02.2014, for assignment of marks for qualification, experience, knowledge of science practical equipments and an interview should be kept in such proportion, that marks for knowledge of science practical equipments and interview together should not be more than 1/3rd of the total marks. The suggested criteria by the learned Single Judge in the judgment may address a part of the requirement of assessing the merit of the candidates.
22. For the job of a Laboratory Attendant, both theoretical and practical aspects are of equal importance. Therefore, the merit of the candidates should be re-assessed in the following manner:

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Criteria	Earlier	Revised
Written Examination	Qualifying	50
Interview	20	20
Academic Qualifications	5 (5 for 1 st Division, 3 for 2 nd Division & 2 for 3 rd Division)	10 (10 for 1 st Division, 6 for 2 nd Division & 4 for 3 rd Division)
Knowledge of Scientific Practical Equipment	15	15
Experience (as on date of notification)	5 (1 for 1 year, 2 for 2 years, so on & so forth)	5
Rural Areas	5	0
Total Marks	50	100

23. To carry out the exercise, depending upon their performance in the written test, candidates to the extent of five times the number of vacancies should be shortlisted to participate in the next segment of the test. As is clear from the aforementioned tabulated chart, candidates should be evaluated on a total of 100 marks, of which 50 marks would be awarded on the basis of a written examination. From the balance, 20 marks should be awarded on the basis of the candidate's performance in an interview, 15 marks on the basis of knowledge of scientific practical equipment, 10 marks on the basis of academic qualifications (10 for 1st Division, 6 for 2nd Division & 4 for 3rd Division) and 5 marks on the basis of experience (as on the date of notification i.e., 27.04.2011).
24. As some of the shortlisted candidates may have become gainfully employed elsewhere or no longer interested in pursuing the same, a waiting list of 10 beyond the 31 notified vacancies should also be prepared. If any vacancy remains unfilled from amongst the 31 in order of merit in the list, those vacancies can be filled up in order of merit from the waitlisted candidates.

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25. At this juncture, we have been informed by Mr. Khurana, the learned counsel for the PSEB, that the marks scored by the individual candidates in the written examination are available in the PSEB records. Therefore, a fresh selection exercise is to be carried out in terms of the above directions, within eight weeks from today.
26. With the above order, the appeals are allowed. The parties to bear their own cost.

Result of the Case: Appeals allowed.

[†]*Headnotes prepared by:* Nidhi Jain