



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

LPA No.318 of 2025
Reserved on : 07.04.2026
Decided on : 16.04.2026
Uploaded on : 16.04.2026

Shakun Saini

...appellant.

Versus

Union of India and Others.

...Respondents.

Coram

Hon'ble Mr. Gurmeet Singh Sandhawalia, Chief Justice.

Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?¹

For the appellant : Mr. Shrawan Dogra, Sr. Advocate with Mr. Saurav Rattan and Mr. Tejasvi Dogra, Advocates.

For the respondent(s) : Ms. Reeta Thakur, Central Government Counsel, for respondent No.1-UOI.

Ms. Devyani Sharma, Sr. Advocate with Mr. Anirudh Sharma, Advocate, for respondents No. 2 to 4.

Bipin Chander Negi, Judge

The present appeal has been preferred against the impugned judgment dated 28.11.2024, passed by the learned Single Judge in ***CWP No.43 of 2023, titled Shakun Saini Vs. Union of India and Others***, by the present appellant, whereby the writ petition filed by the present appellant has been allowed. While allowing the writ petition filed by the present appellant, order dated 23.09.2022 (Annexure P-7),



whereby the candidature of the appellant had been rejected was quashed and set aside. Further while allowing the petition, the respondent-Institute was directed to test the ground/skill abilities of the appellant either on the parameters fixed on 19.09.2022 by making them more objective or by framing fresh parameters, which are objective in nature and thereafter subjecting the present appellant to the said criteria, after informing the appellant of the said criteria in advance.

2. Brief facts giving rise to the present case at hand are that a post of Physical Training Instructor in respondent No.2-University had been advertised on 03.11.2021. The appellant had applied for the said post. On 17.08.2022, the appellant had received a letter for document verification, written test and trade/skill test to be held on 19.09.2022. The petitioner had appeared on 19.09.2022. Thereafter, vide order dated 23.09.2022 (Annexure P-7) the candidature of the appellant was rejected. In the aforesaid backdrop, the writ petition was preferred by the appellant and following reliefs had been prayed for:-

"(i). The impugned order dated 23-09-2022 Annexure P-7 may kindly be quashed and set aside.



(ii) Issue a writ, order or direction, particularly a writ in the nature of mandamus directing the respondents to consider the case of petitioner for appointment to the post of Physical Training Instructor and issue appointment order in favour of the petitioner within time bound manner in pursuant to selection process conducted by the respondent on the basis of the advertisement duly advertised vide dated 03.12.2021.

(ii)(a) That the respondent may be directed to re-do the Trade/skill test by notifying the criterion in advance by at least 15 days and thereafter, declare the result of the petitioner with all consequential action like issuance of appointment letter in case selected.

(ii)(b) The respondents be directed to conduct the said Trade/Skill test by video graphing of the same.

(ii)(c) The respondent may be directed to setup a neutral expert committee to conduct the said Trade/skill test.

(iii) Respondent may kindly be directed to appoint the petitioner as Physical Training Instructor (PTI) with all the consequential benefits."

3. In the reply filed by the respondents, it has been categorically averred that six candidates, other than the appellant, who were fulfilling the minimum essential criteria fixed in the advertisement, had been shortlisted for appearing



in the written as well as the skill test to be conducted by the respondents. However, on 19.09.2022, when the document verification, written test and skill test were held, it was only the appellant, who had appeared. None of the other six candidates, who were fulfilling the essential qualification had appeared.

4. Further in the reply, it had been averred that a 4-Member Selection Committee was constituted, as per the statutes of the Institute. The said Committee had two experts in the field of sports one from IIT Kanpur and the other from IIT Mandi. Besides the aforesaid, in the reply filed it has been stated that the appellant failed to clear the skill test/ground test. The same was qualifying in nature. It is admitted that in the written test the appellant had secured 59 marks.

5. In the aforesaid factual matrix, the moot question, which arose for the consideration before the learned Single judge was as to whether the appellant had been subjected to a fair skill/ground test by the respondents-Institute. From a perusal of the record the learned Single Judge came to the conclusion that it is on 19.09.2022, when the written test as well as the skill test/ground test were to be held that the



parameters for the trade test were laid down.

6. Other than the aforesaid, the learned Single Judge held that except the bald assertion of the respondents-Institute that the appellant had not qualified the trade test/skill test, there was no material on record from which the same could be inferred. No video recording of the selection process was in existence. Besides the aforesaid, the learned Single Judge was of the view that the criteria was not per se objective.

7. It is in the aforesaid backdrop that the writ petition preferred by the present appellant was allowed and order dated 23.09.2022 (Annexure P-7), whereby the candidature of the appellant had been rejected, was quashed, set aside and the respondent was directed to test the ground/skill abilities of the petitioner either on parameters fixed on 19.09.2022 by making them objective or by framing fresh parameters, which are objective in nature. The appellant was to be informed of the said criteria so fixed in advance.

8. Subsequent to the passing of the judgment dated 28.11.2024, a call letter dated 11.12.2024 was issued in favour of the present appellant. By way of said call letter, the



appellant was informed of the date of the physical fitness/skill/trade test, as being 21.12.2024 and the parameters for the physical test/trade test. Copy whereof has been placed at page Nos.267/268 of the paper book of the appeal.

9. In the aforesaid backdrop, the appellant had preferred a contempt petition bearing COPC No.892 of 2024, titled Shakun Saini Vs. Professor Sh. Lamindhar Bahera and Ors. Besides the aforesaid, an execution petition bearing No.1272 of 2024, title Shakun Saini Vs. Union of India and Ors., had also been filed by the present appellant. Both the contempt and execution petition were taken up for consideration by the learned Single Judge and decided on 19.12.2024 in the following terms:-

"4. Though, learned Senior Counsel for the petitioner by referring to para-13 of the judgment has submitted that the respondents have not adhered to the directions passed therein and now the petitioner is being subjected to such parameters which change the rules of the game, however, this Court is of the considered view that in light of the observations of this Court in terms whereof liberty was granted to the respondents to frame fresh parameters, which are objective in nature and, as fresh parameters



framed by the respondents appear to be objective, this Court does not finds any reason to entertain the execution and the contempt petitions. Same are accordingly dismissed.”

10. The appellant in the appeal has filed CMP No.30964 of 2025 (page 312 of the paper book). As per the averments detailed therein, it is evident that during the pendency of the writ petition before the learned Single Judge, an advertisement bearing No.IITMandi/Recruit./NTS/2024/02 dated 07.03.2024 (page 314) had been initiated by the respondent-Institute for the post of Physical Training Instructor. As per the averments made in the said application, the criteria/parameters fixed for selection, in pursuance to the advertisement dated 07.03.2024, were exactly the same, as the criteria which had been laid down in the call letter dated 11.12.2024 (page Nos.267/268 of the paper book) in compliance of impugned judgment dated 28.11.2024.

11. In pursuance to the advertisement dated 07.03.2024, the appellant had participated in the selection process and had subjected himself to the parameters laid therein. The same is evident from the order dated 07.11.2024, passed in the writ proceedings, wherefrom the impugned judgment arises.



12. Once a petition filed by the appellant was allowed and reliefs, as were being sought had been granted, it is difficult to fathom as to how the appellant is a person aggrieved. In this respect, it would be relevant to refer to relief (ii)(a), as was being claimed in the writ petition. The same reads as follow:-

(ii)(a) That the respondent may be directed to re-do the Trade/skill test by notifying the criterion in advance by at least 15 days and thereafter, declare the result of the petitioner with all consequential action like issuance of appointment letter in case selected.

13. In order to subject the appellant to fair process while allowing the writ petition, the respondents-Institute had been directed to test the ground/skill abilities of the appellant either on parameters fixed on 19.09.2022, by making them more objective or by framing fresh parameters for subjecting the appellant to a fair process. Thereby in effect granting relief (ii)(a) as was being claimed by the appellant. The appellant had been informed of the criteria fixed in pursuance to the impugned judgment vide call letter dated 11.12.2024 (page 267/268 of the paper book). The criteria so laid was subjected to the rigours of an execution petition bearing



No.1272 of 2024 and a contempt petition bearing No.890 of 2024 (page No.269). The learned Single Judge had dismissed both, the execution and the contempt petition, vide judgment dated 19.12.2024. The relevant extract has already been reproduced supra.

14. Other than the aforesaid, the fairness of the criteria to which the appellant is subjected on 21.12.2024 in pursuance to the impugned judgment dated 28.11.2024 is without any merit, as in a subsequent selection process for the post of Physical Training Instructor issued vide advertisement dated 07.03.2024, the appellant had appeared before the Selection Committee and had subjected himself to the same parameters, as to which he was being subjected to in pursuance to the impugned judgment dated 28.11.2024. The same is evident from order dated 07.11.2024, passed in the writ proceedings (CWP No.43 of 2023), wherefrom the present proceedings arise.

15. The sole contention raised is with respect to the change of the eligibility criteria midway through the recruitment process. In this respect, attention has been invited to authoritative pronouncement of the Hon'ble Apex



Court in ***Tej Prakash Pathak and Ors. Vs. Rajasthan High Court and Ors., (2024) INSC 847 (Civil Appeal No.2634 of 2013)***. In the case at hand, as is evident from the judgment passed by the learned Single Judge, the criteria for the skill test/ground test was for the first time coined on 19.09.2022 i.e. the date on which the written test, skill test and ground test were held. Hence the argument that the criteria was being changed midway is without any basis. In the aforesaid backdrop and the fact that no material existed on record, wherefrom it could be adduced that the conclusion drawn by the Selection Committee of the appellant having not qualified the skill test was correct, moreso, when no video recording of the skill test/ground test existed, the learned Single Judge correctly directed the respondent-Institute to test the ground/skill abilities of the appellant either on parameters fixed on 19.09.2022, by making them more objective or by framing fresh parameters, which are objective in nature. Post-passing of the impugned judgment dated 28.11.2024, fresh parameters were framed, of which the petitioner was duly informed.

16. Thus, for the aforesaid reasons, we are of the considered view that the present appeal is bereft of merit,



therefore, the same is dismissed accordingly.

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

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

16th April, 2026
(VS/Gaurav Rawat)