IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 17th OF NOVEMBER, 2026

WRIT APPEAL No. 30 of 2022

CNR No.: MPHC010018522022

RAM CHARAN JAISWAL AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Kailash Chandra Ghildiyal - Senior Advocate with Ms.Warija Ghildiyal - Advocate for the appellants.

Shri Bramhadatt Singh - Advocate for the respondent No.2.

Shri Ishan Soni - Advocate for the respondent No.5.

Shri Praveen Dubey - Advocate for the respondents No.6 to 9.

Shri Sarabvir Singh Oberoi - Advocate appearing through Video Conferencing for the respondents No.10 to 16.

Shri Satya Prakash Mishra - Advocate for the respondents No.17 to 33.

WITH

WRIT APPEAL No. 242 of 2022

CNR No.: MPHC010126592022

JAIPAL SINGH THAKUR AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Kailash Chandra Ghildiyal - Senior Advocate with Ms.Warija Ghildiyal - Advocate for the appellants.

Shri Bramhadatt Singh - Advocate for the respondent No.2.

Shri Ishan Soni - Advocate for the respondent No.5.

Reserved on : 04.11.2026.

Pronounced on : 17.11.2026.

ORDER

Per. Justice Vivek Rusia

Since the issues involved in these writ appeals are common and are arising out of same impugned order therefore, they are heard analogously and are being decided by this common order. Facts of Writ Appeal No.30/2022 are enumerated hereinafter.

2. The present writ appeals have been filed by the appellants under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005, being aggrieved by the order dated 15.12.2021 passed by the learned Single Judge in W.P. No.5312/2021, whereby the writ petition preferred by respondent No.5 has been allowed and the provision for grant of 20% weightage to the candidates who had previously worked as Multi Purpose Workers (MPWs) under the National Health Mission has been set aside, with a direction to the respondent authorities to prepare a fresh merit list without granting such weightage.

Facts of the case, in short, are as under :-

3. The appellants were initially appointed as Multi Purpose Workers

(MPWs) on contractual basis for a period of one year under the National Vector Borne Disease Control Programme, pursuant to a selection process conducted by the respondent authorities. The said programme was being implemented with financial assistance received by the Government of India from the World Bank and continued up to 31.03.2017 under the Five Year Plan. Upon discontinuation of the financial support, the Government of India advised the State Government to take appropriate steps for sustaining the manpower engaged under the programme. However, the State Government, vide decision dated 31.05.2017, decided to discontinue the contractual services of the MPWs by issuing one month's notice. The said decision was challenged before this Court by the affected employees in various writ petitions; however, the same came to be dismissed vide order dated 25.07.2019 passed in W.P. No.15077/2014 and connected matters. Consequently, the appellants, who had rendered services for more than ten years under the National Health Mission, were rendered unemployed.

4. Thereafter, respondent No.2 forwarded a requisition dated 12.09.2019 to respondent No.3, namely M.P. Online Limited, for initiating the recruitment process against 187 vacant posts of contractual Senior Treatment Supervisors (STS), along with the Rule Book for the recruitment year 2019-2020. Subsequently, vide communication dated 03.10.2019, certain amendments relating to educational and desirable qualifications were also communicated, and the last date for submission of online applications was extended from 05.10.2019 to 20.10.2019. The online examination was conducted on 10.12.2019, and the merit list was published on 23.01.2021.

While preparing the merit list, a weightage of 20% marks was granted to candidates who had previously worked as MPWs on a contractual basis under the National Health Mission, in recognition of their experience.

5. The appellants, having participated in the recruitment process and secured merit positions, were called for counselling, document verification and choice filling. However, the decision of the respondent authorities to grant 20% weightage to the former MPWs was challenged by respondent No.5, Mrigendra Singh Jhariya, by filing W.P. No.5312/2021, contending that such weightage had not been provided in the original recruitment notification and its subsequent introduction amounted to an impermissible change in the rules of the game.

6. In the aforesaid writ petition, the respondent authorities submitted that the decision to grant 20% weightage had already been taken in the meeting of the Executive Committee of the Rajya Swasthya Samiti, National Health Mission, Madhya Pradesh, held on 26.09.2019, i.e., prior to the originally prescribed last date for submission of online applications. It was further submitted that the decision was taken by a competent committee comprising senior officers, including the Commissioner, Health Services, Mission Director, National Health Mission and Director, Health Services, Madhya Pradesh.

7. The appellants contend that none of the affected MPWs, whose appointments and selection prospects were likely to be adversely affected by the outcome of the writ petition, had been impleaded as parties therein. Accordingly, some of the affected candidates, including the appellants, filed

an application for intervention bearing I.A. No.8954/2021, seeking an opportunity of hearing before any adverse order was passed.

8. However, the learned Single Judge, vide order dated 15.12.2021, allowed W.P. No.5312/2021 and set aside the condition providing 20% weightage to the candidates having previous experience as MPWs. The learned Single Judge further directed the respondent authorities to prepare a fresh merit list without granting such weightage, relying upon the decision of the Supreme Court in *"Maharashtra State Road Transport Corporation v. Rajendra Bhimrao Mandve, (2001) 10 SCC 51"*.

9. Being aggrieved by the aforesaid order, particularly on the ground that the benefit of weightage had been withdrawn without affording an opportunity of hearing to the affected candidates, and that their selection prospects had been adversely affected, the appellants have preferred the present writ appeals.

Submissions on behalf of the appellants

10. Learned counsel appearing for the appellants submitted that the impugned order passed by the learned Single Judge is contrary to law. It is contended that the decision to grant 20% weightage to the candidates who had previously worked as Multi Purpose Workers under the National Health Mission was taken by the Executive Committee of the Rajya Swasthya Samiti on 26.09.2019, i.e., before the originally prescribed last date for submission of online applications, which was 05.10.2019. Therefore, the decision was taken prior to the commencement of the actual selection process and could not be treated as an impermissible alteration of the rules of

the game.

11. It is further submitted that the aforesaid weightage was granted in recognition of the experience gained by the candidates while working as MPWs under the National Health Mission for a considerable period. The appellants had rendered their services for more than ten years and had acquired relevant experience, which was considered appropriate by the competent authorities while framing the recruitment policy. The grant of such weightage was a conscious policy decision taken by a committee comprising senior officers of the Health Department and was neither arbitrary nor without authority.

12. Learned counsel further contended that the benefit of 20% weightage was granted on the basis of prior work experience and the same did not require the other participating candidates to undertake any additional exercise or fulfil any new eligibility condition. Had the said provision been incorporated in the recruitment notification, it would not have altered the marks obtained by the other candidates or prejudiced their candidature in any manner. Thus, the learned Single Judge failed to appreciate the distinction between alteration of eligibility criteria and grant of additional weightage for relevant experience.

13. It is also contended that the appellants were directly affected by the outcome of W.P. No.5312/2021, as they had secured positions in the merit list after being extended the benefit of 20% weightage. However, none of the affected MPWs was impleaded as a party in the writ petition. Despite filing an application for intervention bearing I.A. No.8954/2021, their

interests were not adequately considered before passing the impugned order. The order, therefore, has been passed without affording an effective opportunity of hearing to the persons whose selection prospects stood adversely affected.

14. Learned counsel lastly submitted that even assuming that the prescription of 20% weightage was legally impermissible, the learned Single Judge ought not to have directed preparation of a fresh merit list by simply excluding the weightage. Instead, the entire selection process ought to have been set aside, leaving it open to the respondent authorities to take an appropriate decision regarding the grant of weightage and initiate a fresh recruitment process. On these grounds, learned counsel prayed for setting aside the impugned order dated 15.12.2021 and dismissal of the writ petition.

Submissions on behalf of the respondent authorities.

15. The respondent authorities contended before the learned Single Judge that the decision to grant 20% weightage to the candidates who had previously worked as Multi Purpose Workers under the National Health Mission was taken in the meeting of the Executive Committee of the Rajya Swasthya Samiti held on 26.09.2019. It was submitted that the said decision was taken before the originally prescribed last date for submission of online applications, i.e., 05.10.2019, and therefore, the grant of weightage could not be treated as a subsequent alteration of the recruitment criteria.

16. It was further submitted that the decision was taken by a competent committee comprising senior officers of the State Health Department, including the Commissioner, Health Services, Mission Director,

National Health Mission and Director, Health Services, Madhya Pradesh. The weightage was granted to recognise the previous experience of the MPWs who had served under the National Health Mission and was based on a conscious administrative policy decision. Accordingly, the respondent authorities justified the grant of 20% weightage and opposed the challenge raised by respondent No.5.

Submissions on behalf of respondent No.5 (original writ petitioner)

17. The principal contention of respondent No.5 was that the original recruitment notification did not contain any provision for granting 20% weightage to candidates who had previously worked as MPWs under the National Health Mission. It was contended that the introduction of such weightage, which had a direct bearing on the preparation of the merit list and the selection of candidates, amounted to changing the rules of the game after commencement of the recruitment process. Such a change was impermissible and prejudicial to the other candidates who had participated in the selection process on the basis of the originally notified recruitment conditions.

18. On the aforesaid grounds, respondent No.5 sought setting aside of the decision granting 20% weightage and preparation of a fresh merit list strictly in accordance with the originally notified recruitment criteria.

Heard the learned counsel for the parties and perused the record.

19. A requisition dated 12.09.2019 was sent to respondent No.3, namely M.P. Online Limited, for initiating the recruitment process against 187 vacant posts of contractual Senior Treatment Supervisors (STS), along with the Rule Book for the recruitment year 2019-2020. Vide

communication dated 03.10.2019, certain amendments relating to educational and desirable qualifications were also communicated, and the last date for submission of online applications was extended from 05.10.2019 to 20.10.2019. The online examination was conducted on 10.12.2019, and the merit list was published on 23.01.2021. While preparing the merit list, the weightage was set at 20% for candidates who had previously worked as MPWs on a contractual basis under the National Health Mission, in recognition of their experience.

20. Admittedly, the above impugned decision by the Executive Committee was taken before the last date of submission of the examination, but it was not included in the advertisement notice and was not known to the participating candidates. Hence, the candidates did not perform in the selection test accordingly.

21. In the case of ***"Tej Prakash Pathak and Others v. Rajasthan High Court and Others, reported in (2025) 2 SCC 1"*** the 5-Judges Constitution Bench of the Supreme Court conclusively settled the law on altering recruitment criteria mid-process. It held that eligibility criteria notified at the commencement of the recruitment process cannot be changed midway unless the extant rules or the advertisement expressly permit such alteration, and even then, any change must satisfy the test of non-arbitrariness under Article 14. If the 20% weightage for prior contractual MPW experience under NHM was not stipulated in the original Rule Book (dated 12.09.2019) or the pre-exam amendment (dated 03.10.2019), introducing it while preparing the merit list on 23.01.2021, after the written examination on 10.12.2019 was

already over, is impermissible. Conversely, if the Rule Book or extant NHM recruitment guidelines already permitted granting weightage or fixing benchmarks prior to that stage, the change is tested against Article 14.

22. In the case of ***"Bishnu Biswas and Others v. Union of India and Others, reported in (2014) 5 SCC 774"***, the Apex Court held that even where an employer has the power to prescribe criteria, it cannot alter the allocation of marks or introduce additional weightage components after the written examination has been conducted. Even in the case of ***"Maharashtra State Road Transport Corporation and Others v. Rajendra Bhimrao Mandve and Others, reported in (2001) 10 SCC 51"***, it has been held that the criteria for selection cannot be altered by the authorities in the middle or after the process of selection has commenced *(specifically dealing with altering the weightage/percentage of marks assigned to different components after the process began)*.

23. Hence, we do not find any ground to interfere with the impugned order passed by the Writ Court and the present Writ Appeals are **dismissed**, accordingly.

(VIVEK RUSIA)
JUDGE

(PRADEEP MITTAL)
JUDGE

Shivani

Digitally signed by SHIVANI TIWARI
Date: 2026.11.17 17:40:02 +05'30'