

(2025) 09 DEL CK 0754

In the Delhi High Court

Case No : Writ Petition (C) No. 13490 Of 2025 & Civil Miscellaneous Application
No. 55383 Of 2025

Shannu Baghel

APPELLANT

Vs

Union Of India & Anr

RESPONDENT

Date of Decision : 24-09-2025

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226

Citation : (2025) 09 DEL CK 0754

Hon'ble Judges : Devendra Kumar Upadhyaya, CJ;Tushar Rao Gedela

Bench : Division Bench

Advocate : Shannu Baghel, Ganpat Ram, Gorang Goyal, Aakash, Saksham Kumar, Disha Gutpa, Shubham Prajapati, Jitendra Kumar, Dr. Manika Aroa, Subhro Deep Saha, Prabhat Kumar, Anamika Thakur, Abhinav Verma, Neha Sharma and Karnika Bhargava, Ankur Mittal, Rabaica Jaiswal

Final Decision : Allowed

Judgement

Devendra Kumar Upadhyaya, CJ.

1. The proceedings of this writ petition under Article 226 of the Constitution of India has been instituted by an advocate practicing before this Court taking exception to the notification issued by the National Highways Authorities of India (hereinafter referred to as "the NHAI") on 11.08.2025 for engagement of Young Professional (Legal) on contract basis insofar as the said notification prescribes the recruitment criteria "on the basis of merit in CLAT (PG) score – 2022 onward"
2. Heard learned counsel for the parties and perused the record available before us on this writ petition.
3. It has been argued on behalf of the petitioner that the impugned notification violates Article 14 and 16 of the Constitution of India, stating the reason that selection based only on CLAT (P G) –2022 score is arbitrary and excludes equal or more meritorious law graduates who appear for law entrance examinations for

pursuing their post-graduate law courses.

4. Further submission on behalf of the petitioner is that there does not exist any rationale linking CLAT (PG) score to the suitability for employment in NHA. Citing the judgment of the Hon'ble Supreme Court in *State of Kerala v. N.M. Thomas*, (1976) 2SCC 310, it has been argued that any selection criteria in public employment must have a rational nexus to the object sought to be achieved.

5. It has also been argued that by confining the selection to the post in question only to CLAT (PG) score, the opportunity for fresh graduates who are practicing advocates or candidates who qualify in CLAT (PG) examination before the year 2022 stands foreclosed, and therefore, the impugned criteria for recruitment/selections is arbitrary.

6. Resisting the prayers, a short counter affidavit has been filed on behalf of the NHA stating the following reasons and justifying adoption of the CLAT (PG) score as the basis of making selection to the posts in question:

6.1. CLAT-PG is a national level standardized examination conducted by a Consortium of National Law Universities which is widely accepted as the most credible test for judging the legal aptitude for post-graduate courses.

6.2. The Consortium of National Law Universities has clearly stated on its web page that several universities and organizations use the CLAT scores for admission and recruitment respectively.

6.3. CLAT-PG though is an examination for the purposes of offering admissions in postgraduate law courses, however it also serves a reasonable benchmark to appreciate and understand the legal acumen of a qualified LL.B candidate who appears in the said examination.

6.4. The syllabus of CLAT-PG examination covers a wide spectrum of substantive and procedural laws.

6.5. The question paper in CLAT- PG examination contains questions which are comprehension-based, are drawn from judicial decisions, statutes and legal texts which also requires candidates to demonstrate reading comprehension, analytical reasoning, and application of law to factual situations.

6.6. CLAT- PG examination is thus, not an academic test in isolation but is also a reasonably practical measure of legal comprehension and reasoning ability.

6.7. CLAT-PG score has been adopted as criteria for selection in order to ensure a uniform, transparent, and merit based assessment.

6.8. Reliance on CLAT-PG score avoids subjectivity and ensures equal opportunity to all law graduates who have appeared for the said examination and further that it minimizes the scope of any bias in the recruitment process.

6.9. A separate and independent recruitment examination across the country for

filing up the post in question would involve considerable expenditure of public fund and require deployment of substantial administrative resources for organizing examinations, preparing question papers and ensuring transparency.

6.10. CLAT-PG score is based on a credible and transparent examination ensuring both cost effectiveness and administrative convenience and is generated through national-level while at the same time it achieves the object of fair and merit-based selection.

6.11. A number of other organizations, including public sector undertakings have been adopting CLAT (PG) scores as basis of recruitment leading to appointment of posts requiring legal knowledge. Some of such organizations are Indian Oil Corporation Limited (IOCL), National Thermal Power Corporation (NTPC), Judge Advocate General (JAG), Oil and Natural Gas Corporation (ONGC) and Power Grid Corporation of India Limited (PGCIL), etc.

7. Learned counsel for the NHA has relied upon the judgments in the case of *PU Joshi and Ors. v. Accountant General, Ahmedabad and Ors.*, (2003) 2 SCC 632 and *Union of India v. Pushpa Rani and Ors.* (2008) 9 SCC 242.

8. We have given our anxious consideration to the competing arguments made by learned counsel representing the respective parties.

9. No doubt, as has been held in *Pushpa Rani (supra)*, the matters relating to recruitment are a matter of policy and ordinarily policy decision of the Government or for that matter that of public sector undertakings is not amenable to judicial review unless the same is arbitrary. It is equally settled that matters relating to creation and abolition of posts, formation and structuring/restructuring of cadres, prescribing the source/mode of recruitment and qualifications, criteria of selection, evaluation of service records of the employees fall within the exclusive domain of the employer. However, the prerogative of the employer in relation to prescribing qualification is not absolute. Such prescription of qualification is subject to the same being non-arbitrary and for sustaining such prescription the employer may be required to establish a rational nexus with the object sought to be achieved, otherwise such prescription may be hit by Article 14 and 16 of the Constitution of India. In other words, qualification must be reasonably relevant to the recognized performance and requirements of service.

10. In *Pushpa Rani (supra)*, the Hon'ble Supreme Court has observed that various conditions of service, including prescription of qualification and criteria of selection fall within the exclusive domain of employer, however, power of judicial review can be exercised in such matters only if it is shown that the action of the employer is contrary to any constitutional or statutory provision or is patently arbitrary or is vitiated due to malafides. Paragraph 37 of the judgment in *Pushpa Rani (supra)* reads as under:

"37. Before parting with this aspect of the case, we consider it necessary to reiterate the settled legal position that matters relating to creation and abolition

of posts, formation and structuring/restructuring of cadres, prescribing the source/mode of recruitment and qualifications, criteria of selection, evaluation of service records of the employees fall within the exclusive domain of the employer. What steps should be taken for improving efficiency of the administration is also the preserve of the employer. The power of judicial review can be exercised in such matters only if it is shown that the action of the employer is contrary to any constitutional or statutory provision or is patently arbitrary or is vitiated due to mala fides. The Court cannot sit in appeal over the judgment of the employer and ordain that a particular post be filled by direct recruitment or promotion or by transfer. The Court has no role in determining the methodology of recruitment or laying down the criteria of selection. It is also not open the Court to make comparative evaluation of the merit of the candidates. The Court cannot suggest the manner in which the employer should structure or restructure the cadres for the purpose of improving efficiency of administration.”

(emphasis supplied)

11. In *Shri Parvez Qadir v. Union of India*, (1975) 4SCC 318, the Hon’ble Supreme Court has observed that as long as the norms which have been adopted are correlated and relevant to the adjudgment of the suitability of the officers to be recruited to a service (the Indian Forest Service in the said case), it is not for the Court to lay down which of the methods has to be adopted for adjudging the suitability. Relevant extract from paragraph 17 of the judgment in *Shri Parvez Qadir*, (supra) is extracted hereinbelow:

“17.It is not for this Court to lay down which of the methods has to be adopted for adjudging suitability as long as the norms which have been adopted are correlated and relevant to the adjudgment of the suitability of the officers to be recruited to the Indian Forest Service.....”

(emphasis supplied)

12. The Hon’ble Supreme Court in *State of Mysore and Another v. P. Narasinga Rao*, 1967 SCC OnLine SC 103 has held that “there must be some rational nexus between the basis of classification and the object intended to be achieved by the statute or the rule.”. In this case, the Hon’ble Supreme Court was concerned with the issue as to whether higher education qualification such as success in the SSLC examination is a relevant consideration for fixing a higher pay scale for tracers who have passed the SSLC examination and the classification of two grades of tracers, one for matriculate tracers with a higher pay scale and the other for non-matriculate tracers with a lower pay scale is violative of Articles 14 or 16 of the Constitution. The Court held that holding higher qualification, i.e. success in SSLC examination is a relevant consideration for such classification. Accordingly, the principle which appears to have been followed in *P. Narasinga Rao*, (supra) is that even in employment related issues concerning grant of certain service related benefits, the prescription made by the employer should have some rational nexus with the object sought to be achieved by such

prescription.

13. In *State of Orissa and Another v. N.N. Swamy and Others*, (1977) 2SCC 508, the issue before the Hon'ble Supreme Court was as to whether completely ignoring teaching experience of a lecturer in a college who is otherwise qualified, without any valid reason, on the sole ground of drawing a particular amount of salary on a particular date can be said to be sustainable. Considering the said issue, the Hon'ble Supreme Court held that such condition had no nexus whatsoever to the object underlying the qualification test in an educational institution having regard to the most essential condition of intrinsic quality and efficiency of teachers.

14. Thus, from the discussion of the aforesaid legal principles as enunciated by the Hon'ble Supreme Court in the cited judgments, the legal position regarding the scope of judicial review in respect of prescription of qualification for selection/ eligibility which emerges is that any policy decision relating to recruitment, which will include prescribing the qualification for eligibility/ selection, is not amenable to judicial review unless the same is found to be arbitrary or otherwise invalid on the ground that such prescription does not have any rational nexus with the object sought to be achieved.

15. The aforesaid legal principle finds echoed in a latest judgment of the Hon'ble Supreme Court in the case of *Tej Prakash Pathak and Others v. High Court of Rajasthan and Others*, (2025) 2 SCC 1. This judgment is centered around the legal principle that once the recruitment process commences, the state or its instrumentalities cannot tinker with the rules of the game insofar as prescription of eligibility criteria is concerned and the question considered therein was as to whether such principle should apply also to the procedure for selection. The Hon'ble Supreme Court concluded that the eligibility criteria for being placed in the select list, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness.

16. It is in these background facts that the Apex Court in paragraph 51 of the judgment in *Tej Prakash Pathak*, (supra) observed that the object of process of selection is to ensure that a person most suitable for the post is selected and further that a degree of discretion though is necessary to be left to the employer to devise its methods/ procedure to select a candidate, however, such discretion is subject to overarching principles enshrined in Article 14 and 16 of the Constitution of India. The observations made in paragraph 51 of the judgment in *Tej Prakash Pathak*, (supra) is extracted hereinbelow:

"51. What is clear from above is that the object of any process of selection for entry into a public service is to ensure that a person most suitable for the post is

selected. What is suitable for one post may not be for the other. Thus, a degree of discretion is necessary to be left to the employer to devise its method/ procedure to select a candidate most suitable for the post albeit subject to the overarching principles enshrined in Articles 14 and 16 of the Constitution as also the rules/statute governing service and reservation.”

17. Applying the aforesaid principle as culled out in the preceding paragraphs, we are of the opinion that in the instant case if the impugned criteria of recruitment does not satisfy the test of Article 14 and 16 of the Constitution of India, inasmuch as that no rational nexus is established for providing such recruitment criteria with the object sought to be achieved, the recruitment criteria as prescribed in the notification dated 11.08.2025 will have to be struck down.

18. The NHAH while issuing the impugned notification dated 11.08.2025 invited application from candidates holding degree of law from a recognized university/ National Law School/ Institute, for engagement on the post of Young Professional (Legal) on contract basis. The details of eligibility and other conditions as prescribed in the said notification are as under:

Field

Information

Name of the Post

Young Professional (Legal)

Age Limit

Candidate should be below 32 years of age as on closing date of online applications

Educational Qualification

(i) Degree in Law from a recognized University/National Law school/ Institute. (ii) CLAT (PG) Score – 2022 onward.

Experience Required

Experience in the field of law related to contractual matters/ arbitration/ legislative matters/ land acquisition will get preference.

Recruitment Criteria

On the basis of merit in CLAT (PG) Score – 2022 onward.

Method of Recruitment

On Contract basis

Period of Contract

The period of engagement may be for a period up to two years in the first

instance, which may be further extended by one more year, based on the requirements of the NHAJ and the satisfactory performance of the incumbent. There shall be no extension of contract beyond the period of three years under any circumstances. NHAJ reserves the right to terminate the contract at any time, without assigning any reason.

Remuneration (per month)

An initial consolidated remuneration of Rs. 60,000/- to Rs. 65,000/- per month, inclusive of all. The consolidated remuneration will be increased @ 5% for each succeeding year subject to satisfactory performance.

For candidates with 1 to 2 years of verified relevant experience – Rs. 65,000/- to Rs. 70,000/- per month.

19. A perusal of the aforesaid details of the eligibility and other conditions for recruitment in question reveals that the requisite educational qualification prescribed therein is (i) Degree in Law from a recognized University/National Law school/ Institute. (ii) CLAT (PG) Score – 2022 onward. The experience required is experience in the field of law related to contractual matters, arbitration, legislative matters and land acquisition and candidates with such experience will be given preference.

20. The aforesaid details as extracted from the notification dated 11.08.2025 contain the recruitment criteria, according to which, recruitment to the post in question shall be made on the basis of the merit in CLAT (PG) Score – 2022 onwards. So far as the eligibility criteria is concerned, apart from a degree in law, the other qualification prescribed is that the candidate should have a score in CLAT (PG) Examination 2022 onwards. It does not provide any benchmark of the score which a candidate needs to be credited with for making him eligible to participate in the recruitment. This criteria for educational qualification says that the candidate should have CLAT (PG) Score – 2022 onwards. This criterion is absolutely vague for the reason that as per the said criteria even if a candidate has secured Zero or Nil marks on his appearance in CLAT (PG) examination, he shall be eligible, whereas if a candidate has not appeared in the CLAT (PG) examination, he shall be ineligible.

21. We do not see any rationale in treating a candidate to be eligible who appears in CLAT (PG) examination and secures Zero marks and not treating a candidate who has not appeared in the said examination at all. Had the NHAJ fixed any benchmark score secured by the candidate concerned in CLAT (PG) Examination, such eligibility qualification having been prescribed by the employer would not have suffered from any illegality. However, by not prescribing any minimum score or benchmark to be obtained by a candidate in CLAT (PG) Examination, merely by appearance in the said examination a candidate becomes eligible though he may secure no marks at all in the said examination. Such a prescription belies any reason whatsoever.

22. So far as the prescription contained in the details of eligibility and other conditions in the notification dated 11.08.2025 relating to 'recruitment criteria' is concerned, the sole basis of preparation of select list for selection and appointment is the merit of the candidate concerned in CLAT (PG) score. It is to be noticed that CLAT (PG) examination is conducted by the Consortium of National Law Universities not for the purposes of making any recruitment/selection or providing public employment; rather such examination is held for the purposes of assessing merit of a LL.B pass student for the purposes of adjudging his suitability to pursue a post-graduate course in law.

23. The criteria determining eligibility for pursuing higher courses (post graduation) and the criteria for adjudging suitability for public employment, in our opinion, cannot be equated with each other. Suitability for public employment may demand certain qualities which may or may not be necessarily required to be fulfilled by a candidate who is desirous of pursuing higher studies.

24. As observed above, the purpose of holding CLAT (PG) examination is to adjudge the suitability of a candidate for the purposes of determining his skills which enable him to pursue higher study courses. Thus, in our opinion, the Consortium of National Law Universities while conducting the CLAT (PG) Examination adjudges the suitability of the candidates for pursuing higher studies and not for employing them, in a law related field.

25. In view of the aforesaid discussion, it is difficult for us to hold that prescribing 'recruitment criteria' shall be on the basis of merit in CLAT (PG) score for the purpose of employment bear any rational nexus with the object sought to be achieved. Here selection is to be held for the purposes of recruitment/selection/ appointment/ employment and not for the purposes of pursuing higher studies. Accordingly, any criteria employed for judging the suitability of a candidate for pursuing higher studies cannot be employed for the purposes of adjudging his suitability for public employment.

26. For all these reasons we hold that prescription relating to recruitment criteria on the basis of merit in CLAT (PG) score does not have any rational basis and lacks the logical nexus with the object sought to be achieved and, accordingly, it is clearly hit by Article 14 and 16 of the Constitution of India.

27. We may further observe that the reasons given by the NHA I for adopting CLAT (PG) score as the basis for carrying out recruitment to the post in question does not legally justify their stand in the instant case.

28. That CLAT (PG) is a nationally recognized examination is not in dispute, however, the said examination is conducted for the purposes of making admission to Post Graduate courses and not for offering public employment. Skills for employability may be different than the skills and suitability required for pursuing higher courses of study, and accordingly, even if the syllabus of CLAT (PG) covers various substantive procedural laws, the same, in our opinion, does not justify adopting the score in CLAT (PG) examination for the purposes of

offering employment.

29. Accordingly, because certain other organizations including the public sector undertakings, have been adopting CLAT (PG) score as basis for offering employment, is not a justification, for the reasons as discussed above, for the NHAI to prescribe the impugned recruitment criteria.

30. It is also to be noticed that the post graduate courses in law are not offered only in the National Law Universities but also are offered in various other Central and State Universities which are of repute. However, admission to post graduate law courses in these universities are not made on the basis of scores in CLAT (PG) which is conducted by the Consortium of National Law Universities for the purposes of making admission to post-graduate courses in the National Law Universities only.

31. The criteria and methodology for selecting students to pursue post-graduate law courses in other Central and State Universities may be different. In this regard, it is to be noticed that some of the universities hold their own selection by subjecting the candidates desirous of pursuing post-graduate courses in law to written examination/ interview etc. In some of the universities suitability of candidates for pursuing post-graduate courses in law is adjudged on the basis of their marks obtained by them in their bachelor's degree course.

32. Accordingly, if the impugned recruitment criteria is to be upheld, the same would be discriminatory vis-à-vis those candidates who do not take CLAT(PG) Examination but participate in selection procedure adopted by other Central or State Universities.

33. In view of the reasons given and discussions made above, we are fully convinced that the impugned 'recruitment criteria' where selection for appointment to the post in question is to be made on the basis of merit in CLAT (PG) score – 2022 onwards, is legally not tenable being hit by Article 14 and 16 of the Constitution of India.

34. Resultantly, the writ petition is allowed and the aforesaid 'recruitment criteria' as given in the notification dated 11.08.2025 is hereby quashed.

35. No order as to costs.