

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT PORT BLAIR

Constitutional Writ Jurisdiction

(Appellate Side)

WP.CT/61/2025

Union of India and Others

Vs.

Shri Denis Mathew and Others

Before: The Hon'ble Justice Arijit Banerjee

&

The Hon'ble Justice Apurba Sinha Ray

For the Petitioners : Mr. Rakesh Kumar, Adv.

For the Respondents : Mr. Mohammed Tabraiz, Adv.

Judgment On : 27.03.2026

Arijit Banerjee, J.:

1. The subject matter of challenge in this writ petition is an order dated September 18, 2025, passed by the Central Administrative Tribunal Kolkata Bench (Circuit at Port Blair) whereby OA 351/1735/2024, being an original application filed by the respondent herein, was disposed of by the learned Tribunal.

2. The material facts of the case in so far as immediately relevant are as follows:

(a) The petitioners (in short UOI) issued a press note dated April 29, 2023, inviting applications for filling up vacant posts in various cadres and departments of the Administration.

(b) The respondents herein are concerned with the recruitment to 28 posts of Warder (Male) of the District Jail, Andaman & Nicobar Administration.

(c) The vacancy notice dated April 29, 2023, prescribed the essential qualifications for the post of Warder (Male), as per the Recruitment Rules dated June 10, 2010, as follows:

(i) Secondary School Examination (Xth Std.) pass from a recognized Board/Institution.

(ii) Ability to read & write Hindi or English.

(iii) Physical Standard as per Jail Manual, 2004.

(d) The Administration conducted written examination. Shortlisted candidates were called for verification of original documents/testimonials, vide public notice dated November 24, 2023.

(e) Thereafter, the shortlisted candidates were called for trade test. Vide press note dated February 7, 2024, the list of selected candidates was notified.

(f) Since adequate number of selected candidates were not available as against the notified vacancy, vide press notes dated June 27, 2024, and June 28, 2024, the respondents herein and

others who were not initially called for the trade test were directed to appear for the trade test. Vide press note dated April 8, 2024, the authorities published a revised list of provisionally shortlisted candidates and directed them to appear for the trade test.

(g) After completion of the recruitment process, the authorities published a press note in the local newspaper on October 19, 2024, notifying the names of the selected candidates for the post of Warder (Male).

(h) The said list contained the names of 12 candidates including those of the respondents herein.

(i) By a press note dated October 24, 2024, the authorities published a corrigendum revising the list of selected candidates. The select list was reduced to 01 candidate from the earlier list of 12 candidates after deletion of names of the present respondents.

(j) The said corrigendum was based on a Standing Order no. 301 dated June 12, 2023, wherein the minimum qualifying marks for the post of Jail Warder was prescribed as 40 per cent. The present respondents did not secure 40 per cent in the written examination.

3. Challenging the aforesaid corrigendum dated October 24, 2024, the present respondents approached the learned Tribunal. They prayed for quashing of the said corrigendum and for an order directing the authorities to appoint them to the post of Warder (Male).

4. Before the learned Tribunal and also before us, learned Advocate for the present respondents (applicants before the Tribunal), argued as follows:

(a) The vacancy notice was issued on April 29, 2023. The Standing Order was issued on June 12, 2023. As such the rules of the game relating to the recruitment process were altered/modified subsequent to initiation of the recruitment process, which is impermissible in law.

(b) The original applicants having been successful in the physical/endurance test, they could not have been removed from the list of selected candidates.

(c) The vacancy notice did not prescribe any qualifying marks in the written examination.

(d) The Recruitment Rules for the post of Warder do not prescribe any qualifying marks in the written examination.

(e) The written examination was conducted for the limited purpose of preparing a merit list. There was no pass mark prescribed for calling the applicants for the physical/endurance test.

(f) The applicants having been found fit in the physical/endurance test in terms of the Jail Manual, they are entitled to be appointed to the post of Jail Warder.

5. In support of his argument, learned Senior Advocate for the original applicants (respondents herein), relied on a decision dated November 7, 2024, rendered by a Constitution Bench of the Hon'ble Supreme Court in ***Tej Prakash Pathak & Ors. Vs. Rajasthan High Court & Ors. in Civil Appeal No. 2634 of 2013.***

6. Learned Advocate for the authorities submitted as follows:

(a) After receipt of Skills/Trade Test reports, category wise additional select list of 472 candidates including the 12 candidates selected for the post of Warder (Male) and reserve panel of waitlisted 150 candidates were published vide press note dated October 18, 2024.

(b)The Superintendent, District Prison, Prothrapur vide letter dated October 23, 2024, intimated that as per the Standing Order no. 301 dated June 12, 2023, the minimum qualifying marks in the written examination is 40 per cent for both General and OBC candidates.

(c)Accordingly, the selection of 12 candidates for the post of Warder (Male) was reviewed and a corrigendum dated October 23, 2024, was issued deleting the names of those 11 candidates who had failed to secure 40 per cent marks in the written examination.

(d)Referring to paragraph 10 of the Vacancy Notice, learned Counsel submitted that the cut off marks in written examination (Tier-I) may be different for vacancies against each post and the same were to be fixed at the sole discretion of the A&N Administration/S.S.C. The cut off marks for the post of Warders was decided by the Prison Department vide S.O.P dated June 12, 2023. As per the said Standing Order, the original applicants (present respondents) fell short of the minimum prescribed marks for the post of Warder. Hence, they are ineligible for appointment.

7. The learned Tribunal after noting the respective arguments of the parties allowed the Original Application, quashed the corrigendum dated

October 24, 2024, and restored the Select List published on October 19, 2024, containing the names of the original applicants. The authorities were directed to take necessary action to process the appointment of the applicants to the post of Jail Warder on the basis of the Select List dated October 19, 2024, within a period of 90 days from the date of receipt of a copy of the order in their office. The relevant observations of the Tribunal are noted below:

“8. From the averments made by the rival parties in the O.A and the reply of respondents, it is clear that the entire process of selection was conducted by Administration department with the help of S.S.C. From the commencement of the recruitment process, with the publication of the Vacancy Notice on 26/04/2023, to the publication of the Select Lists on 07.02.2024 and 19.10.2024, there is no formal role of the user departments, in this case the Prison Department except probably informing the Administration Department about the vacancies remaining after the successful candidates in the Select List joining the user department. Role of the user department appears to be limited to placing indents for the required personnel and to specify the eligibility criteria and other pre-conditions, if any, for the posts to be notified. Vacancy Notice was presumably published after obtaining the number of vacancies to be filled up and the eligibility criteria for the posts. All relevant details were published in the Vacancy Notice including the eligibility conditions, mode of

selection etc. It did not specify any minimum marks to be obtained in the written examination for the post of Jail Warders. The selection process was conducted by the recruiting agency as per the terms and conditions in the Vacancy Notification. In para 10, the Administration has reserved the right to specify cut off marks for different posts. The Administration in para 10 obviously refers to the Administration Department and the S.S.C which were conducting the recruitments on behalf of user departments.

9. As per the averments made by the applicants as well as the respondents, in the period between publication of the Vacancy Notice and notification of the Select List, there was no formal involvement of the user department, the Prison Department in this case. If the Prison Department had any minimum requirement for the posts under its control, it was required to inform the recruiting agency, i.e. the Administration Department before the publication of the Vacancy Notice. It can be reasonably presumed that the criteria of minimum marks in the written examination for Jail Warders was not in existence when the Vacancy Notice was published as proved by the averment of the respondents in the reply that the minimum marks in written examination for Jail Warders was prescribed by the S.O.P notified on 12/06/2023 i.e. after the Vacancy Notice was published on 26.04.2023 containing the details of the selection process.

10. Hon'ble Supreme Court in ***K. Manjushree Vs. State of A.P & Anr. (2008) 3 SCC 512*** has observed as follows:

“If the Selection committee prescribe minimum marks only for the written examination, before the commencement of selection process, it cannot either during the selection process or after the selection process, add an additional requirement that the candidates should also secure minimum marks in the interview. What we have found to be illegal, is changing the criteria after completion of the selection process, when the entire selection proceeded on the basis that there will be no minimum marks for the interview.”

Hon'ble Apex Court in the case of ***Tej Prakash Pathak & Ors. Vs. Rajasthan High Court & Ors. in Civil Appeal No. 2634 of 2013*** has further elaborated that:

“20. The discernible ratio in K. Manjusree (supra) is that the criterion for selection is not to be changed after completion of the selection process, though in absence of rules to the contrary the Selection Committee may fix minimum marks either for written examination or for interview for the purposes of selection. But if such minimum marks are fixed, it must be done before commencement of selection process. This view has been followed by another three-Judge Bench of this Court in Ramesh Kumar v. High Court of Delhi wherein the law on the issue has been summarized thus:

“15...in case the statutory rules prescribe a particular mode of selection, it has to be given strict adherence accordingly. In case, no procedure is prescribed by the rules and there is no other impediment in law, the competent authority while laying down the norms for selection may prescribe for the tests and further specify the minimum benchmarks for written tests as well as for viva voce.

11. In the instant case, the rules of the game were laid out in the Vacancy Notice dated 26.04.2023. These rules cannot be changed or modified after the game in the form of the selection process had started. Even this change was brought to the notice of the recruiting agency by the Prison Department after the publication of the Select List, probably because the Prison Department was not directly involved in the selection process till its culmination with the publication of the Select List.

12. Keeping the ratio prescribed by the Hon'ble Supreme Court as quoted above, we are of the view that the respondents' action in excluding the names of the applicants from the Select List, on the basis of the provisions for minimum marks in the written examination for the post of Jail Warders as stipulated in S.O.P of Prison Department issued on 12.06.2023, cannot be sustained and is liable to be quashed and set aside.”

- 8.** We have carefully considered the rival contentions of the parties.
- 9.** The undisputed facts of the case have been noted above. The vacancy notice dated April 26, 2023, set on motion the concerned recruitment

process. The said notice specified terms and conditions of recruitment as well as eligibility criteria. The notice did not prescribe minimum marks in written examination.

10. The selection process was conducted on the basis that there was no minimum marks requirement in the written examination, for being eligible for the post of Warder (Male). After verification of the documents/testimonials and after the shortlisted candidates were called for trade test, a press note dated February 7, 2024, was issued notifying the list of selected candidates. Since the said list contained lesser candidates than the number of notified vacancy, vide press notes dated June 27, 2024, and June 28, 2024, the respondents and others were directed to appear for the trade test. A revised list of provisionally shortlisted candidates was published on July 8, 2024, and such candidates were directed to appear for the trade test. The respondents herein duly appeared for the trade test and were successful. On October 19, 2024, a list was published by the authorities containing the names of 12 candidates for the post of Warder (Male). The present respondents were 11 out of those 12 candidates. Therefore, the present respondents were selected for appointment to the post of Warder (Male) following the Recruitment Rules.

11. It was only after selection of the present respondents that the authorities introduced the requirement of minimum marks of 40 per cent in the written examination, at least in so far as the post of Warder (Male) is concerned. On the basis of such change criterion, the names of the present respondents were deleted from the list of selected candidates. This was done on the basis of a Standing Order dated June 12, 2023. That order does not

seem to have emanated from the Recruiting Department of the Administration or the School Service Commission, who jointly conducted the recruitment process. The Standing Order seems to have originated from the prison department of the Administration. Although that department is the user department, it was never really involved in the recruitment process. The recruitment process was conducted and managed by the Recruiting Department and the School Service Commission. Hence, reliance placed by learned Advocate for the Union of India on paragraphs 7 and 10 of the vacancy notice dated April 26, 2023, is misplaced. The said paragraphs read as follows:

“7. It is mentioned in para 7 of the Vacancy Notice that:

“There shall be a single paper for all the four subjects, having: "Objective Multiple-Choice- type Questions". The Authorities Shall however, have full discretion to fix the minimum qualifying marks in either one or all the subjects. The question paper in respect of subjects at Sl. No.(i), (ii) & (iv) above will be set in English and Hindi languages only. Only such candidates, who attain a minimum standard, as may be fixed by the Authorities in their discretion, shall be eligible to take the Tier-II, if any/ as applicable (Physical Measurement & Endurance/trade Test) as specified in Annexure-1.”

The respondents have also relied on para 10 of the Vacancy Notice dated 26.04.2023, the relevant part of which is reproduced below:

(emphasis added)

“10. MODE OF SELECTION:

Candidates will be short-listed on the basis of their merit and preferences in the Written Examination. The cut-offs in the written Examination (Tier-1) may be different for vacancies against each post and the same shall be fixed at the sole discretion of the A & N Administration/Staff Selection Commission. Candidates for each vacancy will be finally selected based on their performance in the Written Examination (Tier-1), subject to their meeting basic qualifying standards fixed in skill/trade test (Tier-II), if any/as applicable. However, for certain posts having Physical Measurement & endurance/Skill/Trade Test (Tier- II) will only be of qualifying in nature.

Provided that ST, OBC, MSP, EWS, ESM and PWD candidates, who are selected on their own merit without relaxed standards, will not be adjusted against the reserved share of the vacancies. Such MSP, ESM and PwD candidates will be accommodated against the general/unreserved vacancies as per their position in the overall Merit List.

The reserved vacancies will be filled up separately from amongst the eligible ST, OBC, who are domicile of A & N Islands and who are lower in merit than the last General candidate (UR) in merit list of un-reserved category but

otherwise found suitable for appointment even by relaxed standard.

Physically Handicapped (OH/VH) category candidate who qualifies on the basis of relaxed standards viz. age limit, experience or qualifications, permitted number of chances in written examination, extended zone of consideration, etc. is to be counted against reserved vacancies and not against general vacancies subject to fitness of such candidate for selection. Such candidates may also be recommended at relaxed standards to the extent of the number of vacancies reserved for them, to make up for the deficiency in the reserved quota, irrespective of their rank in the order of merit. In so far as cases of Ex-Serviceman are concerned, deduction of the military service rendered from the age of Ex-Servicemen of A & N Islands is permissible against the reserved or unreserved posts and such exemption cannot be termed as relaxed standards with regard to age. Refer <http://disabilityaffairs.gov.in/content/Group-C.pdf> regarding the posts identified suitable for PwD person.

Success at the examination confers no right of appointment whatsoever unless the A & N Administration /Staff Selection Commission is satisfied after such enquiry as may be considered necessary that the candidate is suitable in all respects of appointment to the service/post and the decision in this regard shall be final & binding.””

12. As rightly noted by the Tribunal neither of the aforesaid paragraphs mention that the Select List would be subject to the minimum marks to be obtained in the written test as prescribed by the user department nor do they specify the stage of the selection process at which the criterion of minimum marks will come into play. As rightly held by the Tribunal, it cannot be the case that a criterion such as the one we are discussing, can be applied to nullify the selection process after the publication of the Select List.

13. A more fundamental reason as to why the deletion of the names of the present respondents from the Select List cannot be sustained is that the authorities changed the rules of the game not only after the initiation of or in the middle of the recruitment process, but after the completion of the process. This is completely impermissible in law. We have extracted paragraphs 8 to 12 of the Tribunal's order. In paragraph 10 of the order, the Tribunal has quoted the relevant portions from the decision of the Hon'ble Supreme Court in ***K. Manjushree v. State of AP and Anr. (2008) 3 SCC 512*** and also the decision dated November 7, 2024, in ***Tej Prakash and Ors. (Supra)***. To avoid undue prolixity, we do not quote the same again.

14. We therefore do not find any infirmity in the order of the learned Tribunal. The learned Tribunal has correctly recounted the relevant facts of the case and has applied the correct law governing the field. It is a well-considered and logical order which warrants no interference.

15. WP.CT/61/2025 is accordingly dismissed. There will be no order as to cost.

16. Urgent certified website copies of this judgment and order, if applied for, be supplied to the parties subject to compliance with all the requisite formalities.

(Arijit Banerjee, J.)

I agree.

(Apurba Sinha Ray, J.)

Date: 27.03.2026

Place: Kolkata