

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 20484 of 2015 (O & M)

Date of decision: 01.10.2015

Sumanyu Dudi

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present:- Mr. SPS Tinna, Advocate,
for the applicant-petitioner.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 12975 of 2015

Application for placing on record reply to the legal notice dated 07.09.2015 as Annexure P-8 and for exemption from filing certified copies thereof is allowed, subject to all just exceptions.

The same is taken on record.

CWP No. 20484 of 2015

The petitioners request for revaluation has been rejected by the respondent-Board on the ground that there is no provision in the office of the Board for revaluation. Counsel also could not show any rule which provides for the said relief. The legal issue thus arises that whether in the absence of any such provision, the Court can direct revaluation. The said answer stands decided against the petitioner by the Apex Court in ***H.P. Public Service Commission vs. Mukesh Thakur and another, 2010 (6) SCC 759***. The relevant observations read thus:-

*“24. The issue of re-evaluation of answer book is
no more res integra. This issue was considered at length*

by this Court in Maharashtra State Board of Secondary and Higher Secondary Education & Anr. Vs. Paritosh Bhupesh Kurmarsheth etc.etc. AIR 1984 SC 1543, wherein this Court rejected the contention that in absence of provision for re-evaluation, a direction to this effect can be issued by the Court. The Court further held that even the policy decision incorporated in the Rules/Regulations not providing for rechecking/verification/re-evaluation cannot be challenged unless there are grounds to show that the policy itself is in violation of some statutory provision. The Court held as under:

".....It is exclusively within the province of the legislature and its delegate to determine, as a matter of policy, how the provisions of the Statute can best be implemented and what measures, substantive as well as procedural would have to be incorporated in the rules or regulations for the efficacious achievement of the objects and purposes of the Act.....The Court cannot sit in judgment over the wisdom of the policy evolved by the legislature and the subordinate regulation-making body. It may be a wise policy which will fully effectuate the purpose of the enactment or it may be lacking in effectiveness and hence calling for revision and improvement. But any draw-backs in the policy incorporated in a rule or regulation will not render it ultra vires and the Court cannot strike it down on the ground that in its opinion, it is not a wise or prudent policy, but is even a foolish one, and that it will not really serve to effectuate the purposes of the Act....."

25. This view has been approved and relied upon

and re-iterated by this Court in Pramod Kumar Srivastava Vs. Chairman, Bihar Public Service Commission, Patna & Ors, AIR 2004 SC 4116 observing as under:

"Under the relevant rules of the Commission, there is no provision wherein a candidate may be entitled to ask for re- evaluation of his answer-book. There is a provision for scrutiny only wherein the answer-books are seen for the purpose of checking whether all the answers given by a candidate have been examined and whether there has been any mistake in the totalling of marks of each question and noting them correctly on the first cover page of the answer-book. There is no dispute that after scrutiny no mistake was found in the marks awarded to the appellant in the General Science paper. In the absence of any provision for re-evaluation of answer-books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for re-evaluation of his marks."
(emphasis added)

26. A similar view has been reiterated in Dr. Muneeb Ul Rehman Haroon & Ors. Vs. Government of Jammu & Kashmir State & Ors. AIR 1984 SC 1585; Board of Secondary Education Vs. Pravas Ranjan Panda & Anr. (2004) 13 SCC 383; President, Board of Secondary Education, Orissa & Anr. Vs. D. Suvankar & Anr. (2007) 1 SCC 603; The Secretary, West Bengal Council of Higher Secondary Education Vs. Ayan Das & Ors. AIR 2007 SC 3098; and Sahiti & Ors. Vs. Chancellor, Dr. N.T.R. University of Health Sciences & Ors. (2009) 1 SCC 599.

27. Thus, the law on the subject emerges to the effect that in absence of any provision under the Statute or Statutory Rules/Regulations, the Court should not generally direct revaluation.”

In such circumstances, no writ of mandamus can be issued and the present writ petition is accordingly dismissed.

01.10.2015
shivani

(G.S. SANDHAWALIA)
JUDGE