

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP NO. 18025 OF 2016
DECIDED ON : 01.09.2016

CHIRAG MITTAL

...PETITIONER

VERSUS

HARYANA PUBLIC SERVICE COMMISSION

...RESPONDENT

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present : Mr. C. R. Dahiya, Advocate,
for the petitioner.

TEJINDER SINGH DHINDSA, J. (ORAL)

The instant petition has been filed seeking issuance of a writ of mandamus to direct the respondent-Haryana Public Service Commission to re-evaluate /re-examine the answer scripts pertaining to English and English Essay and Political Science subjects in which the petitioner had appeared in H.C.S (Executive Branch) and other Allied Services Main Examination, 2014. Further prayer is to permit the petitioner to appear in the interview scheduled on 02.09.2016.

The pleadings on record would indicate that the petitioner is physically handicapped and his disability has been assessed to the extent of 100%. The Haryana Public Service Commission issued an advertisement dated 20.12.2014, inviting online applications from eligible candidates for recruitment of 55 posts of H.C.S (Executive Branch) and other Allied Services. The conditions of eligibility as regards qualifications, age etc. were stipulated in the advertisement itself. The scheme of examination comprised of three stages : (i) Preliminary Examination (Objective Type/ Multiple Choice) for screening only; (ii) Main Examination (Conventional/ Essay type) and (iii) Personality Test (Viva-voce).

The petitioner, being eligible, submitted his application under the reserved physically handicapped category and duly appeared in the preliminary examination. He was declared qualified to appear in the Mains examination.

In the Mains examination, a candidate had to appear in three compulsory papers i.e (i) Hindi and Hindi Nibandh; (ii) English and English Essay and (iii) General Studies, each carrying a maximum of 100 marks. That apart, a candidate had to opt for two more subjects out of 23 options available. The petitioner had opted for the subjects of Sociology and Political Science.

The prayer raised in the present petition seeking re-evaluation/re-examination of his answer scripts stems on the basis that in the result declared by the Haryana Public Service Commission of the Mains examination, the petitioner has not qualified so as to appear in the third and final stage i.e the personality/viva-voce test.

Mr. C.R. Dahiya, learned counsel would submit that the petitioner has been awarded 32 marks in the compulsory subject of English and English Essay out of a total of 100 marks and has been awarded only 60 marks in the optional subject of Political Science out of a total of 150 marks. The contention of learned counsel is that the petitioner has been grossly under assessed in these two subjects. In support of the said contention, it is submitted that the petitioner passed 10+2 examination by securing 60.2% marks and thereafter qualified BBA securing 56.98% marks. Thereafter the petitioner qualified M.A (Political Science) as a private candidate securing 56.5% marks and also qualified National Eligibility Test (NET) for Lecturership in the subject of Political Science conducted by the University Grants Commission (UGC) in September, 2012. The petitioner is also stated to have qualified Central Teachers Eligibility Test (CTET) in July, 2013 securing 68% marks conducted by the Central Board of Secondary Education (CBSE). Even the Haryana Teachers Eligibility Test (HTET) in the subject of Political Science was also cleared by the petitioner in July, 2013 securing 62.66% marks. Thereafter the petitioner qualified M.Ed. (Masters of Education) in the year 2014-15 securing 66% marks. The petitioner is also stated to have been selected and appointed as Probationary Officer with the State Bank of India. Against the backdrop of such academic record, it is argued that the petitioner could not have possibly secured only 32% marks out of 100 in English and English Essay, as also only 40% i.e 60 marks out of 150 marks in Political Science. The submission raised is that Haryana Public Service Commission is under an onerous responsibility to conduct a public examination in a fair and

transparent manner and wherever there is an aberration in the result, the power to re-examine/re-evaluate the answer script would be inherent with the Commission. Further contended that the petitioner, who is physically disabled, cannot be denied his vested right towards a fair consideration for appointment of H.C.S (Executive Branch) and other Allied Services and as such, the prayer made in the present petition be accepted.

Having heard learned counsel for the petitioner at length, this Court is of the considered view that no basis for interference is made out.

There is no dispute as regards the factual position that to qualify for the third and final stage of selection i.e personality/viva-voce test, a candidate has to secure at least 45% marks in aggregate in all the written papers and minimum 33% each in Hindi and English language (compulsory papers) in the Mains examination conducted by the Commission. Such bench mark has to be applied across the board and the Commission would be obligated to strictly adhere to the same. The petitioner has failed to secure 33% marks in the compulsory papers of English and English Essay. He has even failed to secure 45% marks in the aggregate of all the written papers. Under such circumstances, the petitioner having failed to negotiate the main examination cannot be permitted to participate in the personality/viva-voce test.

The prayer for re-evaluation/re-examination of the answer scripts raised in the instant petition is not on the strength of any statutory provisions or instructions having been issued. Rather learned counsel concedes that there is indeed no provision for re-evaluation/re-examination.

The document placed on record and appended at Annexure P-5 along with

the petition, would clearly show that the provision is only for re-checking of answer sheets upon payment of fee of ₹100/- and even in the said exercise of re-checking, only two parameters would be considered; (i) whether there is any mistake in totalling of the marks and (ii) whether any question attempted by the candidate has not been awarded marks.

The prayer of the petitioner is not for re-checking, but for re-evaluation/re-examination of the answer scripts. The acceptance of such a prayer in the absence of an express provision, permitting the same would open up a pandora's box. It is in public interest that a public examination of the nature that Haryana Public Service Commission has conducted and the different stages thereof attain finality. Such examination and the process of selection cannot remain open ended. Each and every candidate who remains unsuccessful in an examination would clamour for re-evaluation/re-examination. Such course of action is neither feasible nor advisable.

The mere fact that the petitioner possesses an outstanding academic record cannot be made the basis for this Court to draw a dubious inference that the petitioner has been under assessed while evaluating his answer scripts in the papers of English and English Essay (compulsory papers) and Political Science (optional paper). The scope of judicial review in the matters of conducting of examination at the hands of a constitutional body, as also declaration of results, would be extremely limited. It is only in the case of patent arbitrariness and mala fides that any intervention would be called for. The petitioner has raised no allegations of bias, favoritism or mala fide. In the absence of such plea, there would be no occasion for this Court to accept the prayer made in the instant petition.

For the reasons recorded above, I find no merit in the petition and the same is accordingly dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

SEPTEMBER 01, 2016
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Whether speaking/reasoned ?	YES/NO
Whether reportable ?	YES/NO