IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19838 of 2016
Date of decision: 23.09.2016

Abhishek Garg **..Petitioner**

Versus

Punjab State Subordinate Service Board and another **..Respondents**

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. V.K. Sandhir, Advocate
for the petitioner.

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Daya Chaudhary, J.

The prayer in the present writ petition filed under Articles 226 and 227 of the Constitution of India is for issuance of a writ in the nature of mandamus directing the respondents to consider the objections with regard to the discrepancies in answer sheet of the petitioner in typing test held on 27.05.2016 for selection to the post of Clerk and Clerk-cum-Data Operator conducted in pursuance of advertisement No.4 of 2015.

Briefly, the facts of the case as made out in the present writ petition are that an advertisement dated 27.11.2015 (Annexure P-1) was issued for appointment of 556 posts of Clerks and 58 posts of Clerks-cum-Data Operators for different departments of State of Punjab. Said posts were further bifurcated in different categories. Subsequently, the posts were increased to 2664 in total vide public notice dated 06.04.2016 (Annexure P-2). The petitioner applied for the aforesaid posts being eligible as per terms and conditions of the advertisement. He was issued admit card with roll No.41510117772 and was called for type test on 27.05.2016. As per case of

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the petitioner, the answer sheet of the petitioner was not correctly checked due to fault in the software as correct typed answers were also marked as wrong. A complaint was also made with regard to fault in the software. Thereafter, a public notice was published for filing objections including the discrepancies in the answer sheet. Specific time schedule was also given for applying for copy of answer sheet as per roll number. The date for applying the answer sheet for petitioner was 04.07.2016 and for filing application for any objection or discrepancy was 08.07.2016. The petitioner applied for answer sheet as per schedule and the same was got checked. It was found that many correct words were marked wrong in the computer checking but the petitioner could not apply for rechecking/objection pointing out the discrepancies as per given schedule. An application was moved but the same was rejected on the ground that there was delay in filing the same.

The present writ petition has been filed for issuance of direction to the respondents to allow the petitioner for filing objections and for pointing out the discrepancies in the answer sheet as the petitioner could not apply/file objection within the stipulated period.

Learned counsel for the petitioner submits that the petitioner could not apply immediately and delay occurred in filing of the application whereas the discrepancies in marking of the answers was apparent and the petitioner has good ground to be allowed to submit the application for raising objections and pointing out discrepancies. Learned counsel also submits that the application moved by the petitioner has wrongly been rejected, which has caused great loss to the petitioner.

Heard arguments of learned counsel for the petitioner and have also perused the documents available on the file.

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The facts with regard to issuance of advertisement and its terms and conditions and submission of application by the petitioner are not disputed.

Admittedly, the petitioner appeared in the type test but due to fault in the software, the answer sheet was not correctly checked. It is also not disputed that by public notice dated 28.06.2016, the applications for getting answer books of typing test from the candidates, who appeared in the test, were invited. It was also mentioned in the notice that the candidates, who wanted to receive the answer books of the typing test could apply and get the same from the office of the Board on working days between 11 am to 3 pm. It was also mentioned that in case, any candidate had any doubt or correction in his answer book, he had to submit his application before the office of respondent-Board before 08.07.2016. The complete schedule for getting the answer books was also mentioned. As per schedule, the petitioner was to submit his application on 08.07.2016 as his roll number was 41510117772 but he could not submit application/objection on the date specified in the schedule and his request was not accepted. Since the petitioner did not file objections within the stipulated period, there was no occasion with the respondent-authorities to accept the objections. It was submitted that the request be accepted after due date, as the selection process was not concluded.

Same view was taken by this Court in ***Impinder Singh vs. State of Punjab and another, 2011(1) SLR 298*** as the petitioner in that case, applied for PCS Executive Branch but his candidature was rejected as he was found ineligible by the Punjab Public Service Commission as a wrong code was filled by the petitioner. A representation was filed by the

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petitioner but no decision was taken. A public notice was issued for inviting objections from such like persons on or before 31.08.2010 but the objections were not filed before the last date given in the notice. It was held that the petitioner did not file the objections within the stipulated time and respondents were within their rights to entertain the objections/representations even after cut off date. It was also held that in case, the persons like the petitioner were allowed to submit application/representation, the selection process could not be concluded.

Similarly in another judgment of Hon'ble the Supreme Court in ***State of Madhya Pradesh and another vs. Shri Rameshwar Prasad (dead) by Lrs. and others, 1976 AIR (SC) 214***, the objections were invited from the officers whose seniority was fixed within a period of one month from the date of the publication. No objection was filed by the certain employees. Thereafter, the final gradation list was published. The employee filed objections but the same were not accepted. Thereafter, writ petition was filed by the employees in the High Court of Madhya Pradesh in the month of February 1966 praying for quashing of gradation list. The High Court quashed the part of the gradation list with liberty to the concerned employee to make representation. Thereafter, the respondent-State approached Hon'ble the Supreme Court for quashing of the judgment passed by the High Court and the decision of High Court was set-aside on the ground that the Government was to prepare the final gradation list after considering the objections and the list was inconsonance with the provisions of Section 115 of the State Reorganistion Act, 1956. The appeal filed by the respondent-State was allowed. It was held that the representation was to be filed before the finalisation of the gradation list and once the list was finalised, it was

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difficult for the Government to review its order, which would lead to serious complications and dislocation to the service structure.

Similarly, in another judgment of Hon'ble the Apex Court in ***S.B. Dogra vs. State of Himachal Pradesh, 1992(4) SCC 455,*** objections were invited and there was delay in filing objections/representation as objections were filed after publication of final gradation list. The SLP filed against judgment of Himachal Pradesh High Court was dismissed by holding that the representation was filed after long delay and on expiry of time mentioned in the publication of the provisional gradation list.

In the present case also, the petitioner could not file objections within the time prescribed in the public notice and subsequently, to grant more time to accept the objections/representation of the petitioner would reach to the conclusion that there cannot be any end of litigation as subsequently, many candidates could have come for filing objections.

Hence, there is no merit in the contentions raised by learned counsel for the petitioner and the petition being devoid of any merit is hereby dismissed.

23.09.2016 **(DAYA CHAUDHARY)**
neetu **JUDGE**

Whether speaking/reasoned √ Yes/No

Whether Reportable √ Yes/No

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