
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.3480 of 2016

Reserved on 26.2.2016.

Date of decision: 2.3.2016

Aaliya Nee Shivani Arora

...Petitioner

Versus

State of Punjab and another

...Respondents

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

Present: Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Abhishek Arora, Advocate for the petitioner.

Mr. L.S.Virk, Additional Advocate General, Punjab.

Mr. Kamal Sehgal, Advocate for respondent no.2.

G.S.SANDHAWALIA, J.

The petitioner challenges the correctness of answer key of Paper-II of Civil Services Aptitude Test (CSAT) conducted by the respondent-Commission result of which was declared on 5.1.2016.

It is case of the petitioner that in pursuance of advertisement dated 10.9.2015 (Annexure P/1) regarding 101 vacancies of Punjab Civil Services (Executive Branch) & Allied Services, the petitioner had sat for the said examination which was a preliminary competitive examination and was held on 12.12.2015. The marks for each answer in Paper-II were 2.5 marks and the objections had been invited vide public notice dated 14.12.2015 (Annexure P/3) after putting the answer key on the Website till 18.12.2016. The petitioner had attempted question paper Series 'B' and the question papers were the same for Series 'A' and 'B', only sequence has been changed. On the basis of objections filed the revised corrected answer key had been uploaded on the website and the result had been declared and the petitioner could not make the cut off marks and has fallen

short of 4 marks from the last candidate who had qualified. Reliance has been placed upon the judgment of this Court in **Civil Writ Petition No.858 of 2016-Arashjit Singh and others Vs. State of Punjab and another** decided on 3.2.2016 (Annexure P/9) wherein benefit had been granted regarding question no.10 in series 'A' which was question no. 4 in series 'B'. Resultantly, the benefit of same question was also sought for apart from other questions from series 'B' namely questions no.5 and 57 apart from the benefit which was already granted regarding question no.4.

The reply filed by the Commission was that the objections had been received from the candidates and the committee of subject experts had been constituted for considering the objections submitted by various candidates including the petitioner. All the objections received have been presented including the objections submitted by the petitioner. The correctness of the answer key was justified. It was specifically further mentioned that regarding question no.54 of series 'B' the benefit of 2.5 marks have been given to all the candidates as there were two right answers. Similarly for question no.55 also, the benefit has been given to all the candidates and the question had been withdrawn. Regarding question no.4, it was submitted that relief had only been restricted to the petitioner in CWP No.858 of 2016 only and the issue of giving the relief to other petitioner was sub-judice in **CWP No.2634 of 2016-Shweta Jaswal and others Vs. State of Punjab and others** which was reserved for orders. Regarding question no.5 of series 'B' no objection has been raised from the petitioner or other candidates, thus, there was no scope of submitting objections before the subject experts. It is accordingly pleaded that once the matter has been referred to the subject experts after obtaining the objections from the candidates, the opinion would be final and

the Court was not to re-examine the same.

Counsel for the petitioner has argued that there was an ambiguity regarding question no.57 and option 'C' given by the Commission was not correct. It is accordingly submitted that benefit should be granted to the petitioner since material has been placed on record by the petitioner which is also part of paper-book. Resultantly, it is also submitted that the petitioner is also entitled for the benefit in respect of question no.4, if any, in **Shweta Jaswal's case** (supra).

After hearing the counsels for the parties, this Court is of the opinion that there is no scope for interference in the present writ petition. Question no.4 of series 'B' and question no.10 in series 'A' are the same and the relief regarding that question was restricted to the petitioners for the reasoning given in order dated 3.2.2016 passed in CWP No.858 of 2016. The bunch of petitions filed subsequently have also been dismissed vide order dated 27.2.2016 while holding that the petitioners were fence-sitters and had acquiesced and given up their right. The petitioner's case is also similar regarding the said question. It has been held as under:-

“As noticed, in the present case, the main test is to be held on 05.03.2016. If the benefit is to be granted, it will have to be granted to all 71 persons universally across the board and it would lead to unsettling the whole issue in view of Rule 13(A)(4), as amended, which reads as under:-

“13-A (I) A main competitive examination, the regulations of which are contained in Appendix III of these rules, shall be held at any place in the State of Punjab as and when notified by the Government through the Commission for the purpose of selection by competition of as may candidates for the service as Government may determine.

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XXX

XXX

“Candidates equal to twelve to thirteen time of

PRADEEP KUMAR ARORA
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of this document
Punjab and Haryana High Court,
Chandigarh

the total vacancies determined by the Government under sub-rule (1) of Rule 13-A shall qualify for the main competitive examination.”

A perusal of the above would go on to show that if the benefit of answer 'a' is to be given, then the persons who had given answer 'd' would necessarily have to be excluded from the list of candidates who are to give the main examination. The authorities, in such circumstances, are justified in holding out that the benefit of pronouncement which was made earlier cannot be extended to other similarly situated persons, keeping in mind this object that the relief had been restricted to the petitioners in that case. The petitioners conduct is such which would be clear from CWP No. 2622 of 2016 wherein it has been specifically averred that the proceedings of Arashjit Singh's case were to be awaited. The relevant portion reads as under:-

“The present petitioner was under a bonafide belief that since she was also affected by the same question, she would have also get the same relief.”

Regarding question no.5 it is pertinent to mention that the petitioner never raised any objection regarding the said question. As per public notice dated 14.12.2015 (Annexure P/3), the petitioner was to file objections within a fixed time frame before the Commission. Relevant material along with proper reasoning was to be examined by the experts and then in case there was any weightage in the case of the petitioner, the Commission was to correct the answer key. Procedure prescribed by the Commission reads as under:-

“3.0 Candidates are required to substantiate their objections by giving proper reasoning for their objections and by attaching documentary evidence with their objections and queries-**If the objections are sent through email, then scanned copies of the documentary evidence should be attached with email.**

4.0 **Any objection sent without reasoning and documentary evidence will not be considered or**

processed by the Commission and it shall be filed without any action.

The E-mail Address for sending objections only in the prescribed performa is:-

supdt.exam@ppsc.gov.in

- 5.0 Objections will be examined by the subject experts to arrive at the final revised and corrected answer key, if necessary. Thereafter, the final answer key will be uploaded on the Commission's Website.
- 6.0 The list of shortlisted candidates for the Mains Examination will be prepared on the basis of final answer key and will be uploaded on the Website of the Commission subsequently.”

Once the petitioner has not followed the set procedure she can not raise any objection for question no.57. Similar view has been expressed by this Court in **Civil Writ Petition No.2693 of 2016-Komal Preet Sharma Vs. Punjab Public Service Commission, Patiala** decided on 10.2.2016. It was accordingly held that once the prescribed procedure has not been followed and the objections were never raised before the Commission and subject expert, the petitioner cannot be permitted to come before this Court for the said relief for the first time.

The reasoning is that matter has already been examined by the subject experts. The subject experts have come to the opinion that the answer key is correct. A Division Bench of this Court in **Letters Patent Appeal No.1956 of 2012-Sameer Khurana and others Vs. Board of School Education Haryana and others** decided on 16.1.2013 held that the scope of judicial intervention in such cases is very restricted since the Courts have very limited academic expertise. It is also matter of fact that all the candidates have also answered the same question and marks were given as per the answer key prepared by the Commission. Therefore it

does not lie in the mouth of the petitioner that she is entitled for grace marks for the said question. The Apex Court in **Himachal Pradesh Public Service Commission Vs. Mukesh Thakur and another** (2010) 6 SCC 759 held that there would be assumption that answer key furnished by the paper-setter and accepted by the University would be correct and should not be disturbed lightly. Reference can be made to the judgment in **Basavaiah (Dr.) Vs. DR. H.L.Ramesh & others** 2010 (4) RSJ 154 wherein it has been held that until there was malafide alleged, no interference by the Courts is called for. Paragraph 44 which is relevant reads as under:-

“We have dealt with the aforesaid judgments to reiterate and reaffirm the legal position that in the academic matters, the courts have a very limited role particularly when no mala fide has been alleged against the experts constituting the selection committee. It would normally be prudent, wholesome and safe for the courts to leave the decisions to the academicians and experts. As a matter of principle, the courts should never make an endeavour to sit in appeal over the decisions of the experts. The courts must realize and appreciate its constraints and limitations in academic matters.”

Regarding question no.57 which reads as under:-

- “57. A woman going with a boy is asked by another woman about the relationship between them. The woman replied, “My maternal uncle and the uncle of his maternal uncle is the same.” How is the lady related with that boy?
- a) Grandmother and Grandson
 - b) Mother and son
 - c) Aunt and Nephew
 - d) None of these.”

The contention of the counsel is that though the option 'c' is

correct answer as per the Commission but the correct answer is also option 'b' if the question is properly dissected.

There is merit in the present argument regarding the fact that option 'b' is also correct answer. This would be obvious as also from the fact that the woman's brother would be uncle of the boy going with her and the woman and the uncle would thus have a common maternal uncle. The parties would thus be mother and son. The petitioner had given various illustrations in support of this example which have been appended as Annexure P/5. Nothing has been shown as how the said options are not justified. However, even if the benefit of one answer is given to the petitioner, admittedly she is falling short of 4 marks from the last candidate and therefore since no benefit is given for the other questions, the petitioner would still not be successful to make cut off marks. Resultantly, no relief can be granted to her.

Keeping in view the settled position, this Court is of the opinion that there is no scope for interference in the present writ petition.

According the present writ petition is dismissed.

March 02, 2016
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(G.S.SANDHAWALIA)
Judge