

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

Date of decision: 09.05.2016

CWP No.6198 of 2016

Sarbjit Singh

...Petitioner

Vs.

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. D.S.Kahlon, Advocate, for the petitioner.

Mr. Harkesh Manuja, Addl. AG, Punjab.

1. *To be referred to the Reporters or not?*
2. *Whether the judgment should be reported in the Digest?*

RAJIV NARAIN RAINA, J. (ORAL)

The OMR sheet of History Paper-II has been produced in Court today as directed. The sealed envelope has been opened and shown to both the learned counsel. The petitioner has not filled Column below “8. Series”. However, the Roll Number and Question Booklet Number have been recorded by hand in Columns 6 & 7 respectively. Columns 6 & 7 are alone enough to connect the petitioner with the History Paper-II and the lapse in shading out Options A to D mentioned in Column No. “8. Series” by the petitioner is not such a serious infirmity that the scores obtained by the petitioner should not be counted towards merit of the selection in the direct recruitment process of filling vacancies of teachers. The petitioner has secured 134 marks in History Paper-II, the OMR sheet of which has been produced in Court today. The

petitioner is very high in merit and it would be a travesty of justice if he is non-suited on a mere technicality only for forgetting not to shade by pencil either A, B, C & D in Column “8. Series” at the appropriate oval place provided in the OMR sheet.

Options A to D mentioned in Column “8. Series” represent the Code of Question Papers. In order to avoid cheating in the examination centre and to make the recruitment process fair, the students have been delivered different Question Papers having different Codes. Though such question papers have different Codes they contain similar questions, but on different serials.

The explanation satisfies the mind of the Court that there is nothing remiss in the candidate not having shaded one of the circles in the Series. In fact, it should have been the duty of the Invigilator at the examination centre to have pointed out the discrepancy to the petitioning candidate, when the OMR sheet was submitted in original copy after the test was taken. Since the candidate and the Invigilator are guilty of contributory negligence, the benefit must go to the candidate competing on merit. The score achieved in the moot paper is not disputed. With the score of 134/150 marks, it is beyond doubt that the petitioner comes within the selection zone with corresponding right to appointment on merit.

Consequently, while allowing the present petition, a direction is issued to the respondents to consider the petitioner for the post of Lecturer (History) as per merit for which the recruitment is still in process and has not been concluded so far since the result is yet to be declared and recommendations made to the State Government to offer appointments to the successful candidates by treating the petitioner's OMR Sheet in the History Paper-II as valid.

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The OMR sheet in original is returned to proper custody through the hand of Mr. Inderjit Pal, Dealing Assistant, Education Recruitment Directorate, Punjab, who brought the sealed cover and is present to receive them after orders were dictated in Court.

09.05.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE