

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

CWP No.858 of 2016 (O&M)

Arashjit Singh & others

... Petitioners

Versus

State of Punjab & another

... Respondents

CWP No.1192 of 2016

Anil Sharma & others

... Petitioners

Versus

Punjab Public Service Commission

... Respondent

Decided on : 03.02.2016

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

Present : Mr.Yagyadeep, Advocate, for the petitioners
(in CWP-858-2016).

Mr.Vikas Chatrath, Advocate, for the petitioners
(in CWP-1192-2016).

Mr.Kamal Sehgal, Advocate,
for respondent-Commission.

G.S. Sandhawalia, J. (Oral)

This judgment shall dispose of CWP-858 & 1192-2016.

The petitioners (in CWP-858-2016), along with other applicants, who got themselves impleaded subsequently as petitioners, seek the relief of quashing the answers to question Nos.10 & 31 of the questions in booklet series-A in Paper-II of Civil Services Aptitude Test (CSAT), as declared by the Commission in

its result dated 05.01.2016. Similarly, the petitioners (in CWP-1192-2016) seek quashing of answers to question No.10/7, which is a common question and in addition to question No.39/33 in set-A in set-D, respectively.

The pleaded case of the petitioners is that the respondent-Commission advertised 101 vacancies of Punjab Civil Services (Executive Branch) & Allied Services vide advertisement No.04 dated 10.09.2015. The preliminary examination was to consist of 2 papers of 200 marks each and was to comprise of objective/multiple choice questions. The petitioners had sat in the said examination held on 12.12.2015 and the marks for the correct answers in Paper-II were 2.5. The objections had been invited on 14.12.2015 regarding wrong answers, which had to be filed within 4 days. Accordingly, the objections had been raised to the above-said questions. The revised correct keys had been uploaded but no benefit was given to the objections raised regarding the above-said three questions. The petitioners were falling short of marks and if benefit of those questions were to be given, they would make the cut. The result was, thereafter, announced, on the basis of the answer keys, as held out to be correct by the Commission and the main examination was to be held in the 2nd week of March, 2016 and therefore, on account of the mistake in the answer keys, the petitioners were being prejudiced.

The writ petition has been contested by the Commission on the ground that the objections were received and were presented to the Committee of subject experts. The Committee had duly considered all the objections relating to the said questions and the subject experts were persons of high repute, knowledge and excellence in their respective subjects. Reliance was placed upon the judgments of this Court in CWP-14946-2013 titled *Sahil Soni Vs. Central Board of Secondary Education*, decided on 13.08.2013, CWP-7570-2013 titled *Gurmehtab Singh & others Vs. State of Haryana & others*, decided on 30.04.2013 and CWP-13624-2013 titled *Tarun Walia & others Vs. State of Punjab*, decided on 13.03.2013, to hold out that once the matter had been referred to the subject experts, case cannot be filed and the Courts are not to go into the said issue and re-examine the same.

Thus, the legal issue which arises for consideration of this Court is that on account of the matter having been referred to the subject experts, which has opined against the petitioners, the jurisdiction of this court is restricted or can this Court examine the questions and the answer keys and come to the conclusion contrary to the one which has been found by the subject experts.

For deciding the above-said issue, necessarily the questions and the correct answers will have to be taken into

account.

The questions in dispute are as under:

“Question no. 10: Which of the following is/are important medium(s) for the kind of education that writer mentions in the first paragraph?

- (a) Exhibition
- (b) Cine-film
- (c) Filmstrip
- (d) All of the above”

As per the Commission, option 'd' is the correct answer and the experts have also held so, whereas the petitioners held out that answer 'a' is the correct answer, namely, 'Exhibition'.

Similarly, question no.31 is reproduced as under:

“Question no.31: Parampara kis bhasha da sabad hai?

- (a) Punjabi
- (b) Arbi-Farsi
- (c) Brij
- (d) Sanskrit”

As per the subject experts and the Commission, the correct answer is 'Sanskrit' whereas as per the petitioners, the correct option would be 'Punjabi'.

For question no.39, which reads as under:

“Question no. 39: Dakki rijhe koi na bujhe da sahi jawab

- (a) Bhed Rakhna
- (b) Andar Khate sahi jana
- (c) Utawle hona
- (d) Vayarth Koshish Karni”

As per the Commission and the subject experts, the

correct answer is option 'b' whereas, as per the petitioners, option 'a', i.e., Bhed Rakhna is the correct answer.

It is not disputed that the Court will not go into this issue until there is a mistake in the answer key which is apparent on the face of the record and that the petitioner is to be given the benefit of ambiguity since they would make the cut. If the Court does not do so, it would be failing in its duties in not exercising its jurisdiction. Reliance can be placed upon the judgment of the Apex Court rendered by three Judges, in **Kanpur University & others Vs. Samir Gupa & others 1983 (4) SCC 309**. It has also been held so by this Court in **Gourav Jain Vs. Haryana Public Service Commission 2009 (4) PLR 161** that where the answer key is carelessly drafted and some of the questions can have two or more correct answers, then benefit has to be granted. Similar is the view taken in **Manmit Singh Vs. State of Punjab & another 2015 (2) PLR 796**.

Regarding question No.10, as reproduced above, there is a patent ambiguity on the face of the record as the question itself talks about as to which of the following medium for the kind of education that writer "mentions in the first paragraph". The question was based on the directions given that a passage had to be read for answering the said question. The passage itself had 3 paragraphs. A description was given in all the 3 paragraphs

wherein there was reference to exhibition, cine-film and filmstrip, which would help in visual education. The whole crux lies in the question itself whereby the relevance is attached to “the first paragraph” and therefore, what was in “the first paragraph” had to be taken into consideration by the candidates. The content of all the 3 paragraphs, on the basis of which, the Commission has opted for the correct answer as option 'd' was not to be the governing factor.

For the said question, as per the original records, which were also called for since the Commission had itself placed on record photocopy of the opinion of the subject experts, even the subject experts themselves, firstly, had written 'a' and then, crossed it out and made corrections and made it 'd'. It is, thus, apparent that what the Court has opined and what the candidates are also suggesting that the correct answer is option 'a', the experts themselves were of the same opinion, though necessary corrections had been made, thereafter. In such circumstances, it is apparent that the benefit of question no.10 reproduced above has to be given to the petitioners.

However, this Court is also restricting the said benefit only to the petitioners, since none others had approached this Court for the said benefits and if the answer key has to be changed, then the other candidates would be adversely affected as

some have given the correct answer as option 'd' and it would lead to unsettling the whole issue. Reliance can be placed upon the judgment in **Kanpur University's case** (supra) and in CWP-24869-2013 titled *Sonia Rattan & another Vs. State of Punjab & others*, decided on 07.09.2015, wherein also, the relief was only restricted to the persons who had approached this Court and the benefits were not to be given to other candidates.

In **Gourav Jain's case** (supra) also, relief had similarly been restricted, accordingly, by referring to the judgment of the Apex Court in **Virender Singh Hooda & others Vs. State of Haryana & another 2005 (1) SLR 10**. The Apex Court in **State of Uttar Pradesh & others Vs. Arvind Kumar Srivastava & others 2015 (1) SCC 347** has also held out that the fence sitters are not to be granted the benefit and the Court can make it limited whether the judgment is to be in rem or in personam. In such circumstances, it is made clear that the relief is only to be restricted to the petitioners. The Commission shall give benefit of question no.10 to the petitioners only, as referred above, since there is an ambiguity apparently on the face of the record.

Regarding question no.31, which counsel for the petitioners have contended, this Court is of the opinion that the word 'parampara' on the face of it, is not a Punjabi word and even the experts have held otherwise. Similarly, this Court does not feel

it necessary to interfere in the opinion of the experts regarding question no.39. The Apex Court has time and again held in **Himachal Pradesh Public Service Commission Vs. Mukesh Thakur 2010 (6) SCC 759** that the opinion of the experts should not be interfered. Similarly, in LPA-1956-2012 titled *Sameer Khurana & others Vs. Board of School Education Haryana & others*, decided on 16.01.2013 (in which, the undersigned was a Member), similar view was taken.

Resultantly, the writ petitions are partly allowed. The petitioners will be given the benefit of question no.10, as mentioned above. Regarding the other questions, the relief is declined. Accordingly, the Commission is directed to correct the result of the petitioners and give them the necessary benefit and declare their result and put it on its website. The said exercise be completed within a period of 10 days from the date of receipt of a certified copy of this order. Whichever of the petitioners are able to make the cut, they will be permitted to apply for the main examination of CSAT, which is to be held in the month of March, 2016, by giving a hard copy of the application with the respondent-Commission. The original records of the experts has been returned to counsel for the respondent-Commission.

FEBRUARY 03, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE