

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.4264 of 2016

Date of Decision: May 19, 2017

Radhika Likhi

...Petitioner

VERSUS

State of Punjab & Ors.

....Respondents

**CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present:- Mr. Swaran Singh, Senior Advocate with
Mr. N.S.Rapri, Advocate for the Petitioner.

Mr. Rajesh Bhardwaj, Addl. AG Punjab.

Mr. Manpreet Singh Kanda, Advocate &
Ms. Kashika Kaur, Advocate for Respondent No.3.

SUDIP AHLUWALIA, J.

The Petitioner in this case seeks a Writ in the nature of mandamus directing the Respondents to declare her as having passed the written examination of PCS (Judicial Branch) held on 7th, 8th and 9th August, 2015, to call her for interview/viva voce, and to declare the result finally for the said recruitment examination.

2) Her specific grievance is that she has been deprived of her entitlement to be called for interview wrongfully by the Respondents. It may be mentioned that for General candidates, the criteria for qualifying the interview was that the

candidate should have secured a minimum of 50% out of maximum 950 marks assigned to the main examination. She was however, granted 474 marks in the aggregate which is just one mark less than the figure which would have enabled her to be declared qualified for Viva. She therefore, applied for inspection of her examination sheets and found two errors in her English Language Paper in relation to Question Nos.2 (B)(viii) & 2 (B)(x). Her contention is that if correct marking was done in relation to the answers given by her, she would have easily attained the qualifying marks beyond the required minimum of 475 marks.

3) Her claim is contested on behalf of Respondent No.3/High Court, which in Para Nos.5 and 6 of its Written Statement, has asserted that the answers given by the Writ Petitioner to Question No.2(B) (viii) and 2(B) (x) were actually wrong/inappropriate on account of which, there is no ground to hold that the final marks awarded to her are incorrect.

4) We have perused the original Answer Sheet of the Petitioner. We are also conscious that it is not for a Writ Court to act as a super-evaluator when it comes to evaluation of subjective answers in an examination, which job is best left to the Experts. Consequently, we are not inclined to interfere at least in relation to the evaluation done in respect of Question No.2(B) (viii). However, in relation to Question No.2(B) (x), we find that the one sentence answer as a whole was treated as wrong which *ex facie* appears to be incorrect even from the stand point of ordinary usage of the English Language. Here in our view, it is not a case of 'subjective evaluation as such' but 'no evaluation' at all considering that an apparently correct answer was summarily declared as 'wrong' with a 'zero' award, without any explanation. Needless to mention that an appropriate evaluation in respect of this particular Question certainly affects the vital fate of the Writ

Petitioner, since just one mark in its evaluation would make her eligible for the next phase of the selection process.

5) We therefore, allow this Writ Petition with a direction upon the Respondents to have the Question No.2(B) (x) as attempted by the Writ Petitioner to be evaluated again by some other examiner, who shall record his special reasons in relation to whatever marks he finds that the candidate is, or is not entitled to get.

6) After such fresh evaluation by the examiner, the Respondents shall take into the final aggregate of the marks secured by the Petitioner in the written examination, and thereafter proceed further for completion of the selection process qua her as per the admitted norms and criteria. The original Question Paper and Answer Script shown to us be returned to the Respondents in a sealed cover.

(Surya Kant)
Judge

(Sudip Ahluwalia)
Judge

May 19, 2017
AS

Whether speaking/reasoned : ***Yes/No***

Whether Reportable : ***Yes/No***