

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

CWP No.24947 of 2017

Date of Order: 06.08.2018

Naresh Bhardwaj

....Petitioner

Versus

State of Haryana and Anr.

....Respondents

CORAM: HON'BLE MRS. JUSTICE RITU BAHRI

Present: Mr. Ashok Bhardwaj, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

RITU BAHRI, J (ORAL)

By way of filing this writ petition, the petitioner has challenged the action of respondent No.2 vide which he has not been called for interview for the post of Clerk (Category No.1) in EBPG category.

It is stated that in pursuant to Advertisement No.10 of 2015 (P.1), the petitioner, who was possessing the essential qualification, applied for the post of Clerk and was issued admit card in this respect. Respondent No.2 conducted written examination for the said post on 13.11.2016, 20.11.2016, 27.11.2016, 04.12.2016 and 11.12.2016 and the petitioner appeared in the examination on 13.11.2016. He secured 142 marks in the written examination. It is further stated that as per the result/notice dated 09.10.2017 (P.7), the cut off marks in the EBPG category was 132. As per the result, candidature of some of the candidates was rejected on the ground of unfair mean case but the name of the petitioner did not find mention in the said list showing roll numbers of candidates who were rejected. The petitioner has also submitted a representation (P.8) in this regard but no action has been taken.

Upon notice, reply has been filed stating that a large number of

applications were received and written test was conducted, however in the said written test, the petitioner namely Naresh Bhardwaj bearing Roll No.1510058511 had erased/smudged the answer to question No.95 on OMR sheet in violation of the instructions and thus accordingly his OMR sheet was not evaluated as per terms and conditions of the Admit card, OMR sheet which led into rejection of his candidature.

The instructions No.8 & 9 printed on the question paper reads as under:

“8. Candidates are warned not to fold or make any stray marks on the OMR Answer Sheet. Use of Eraser, Nail, Blade, White fluid/Whitener etc, to smudge scratch or damage in any manner on the OMR sheet during Examination is strictly prohibited. Candidature/OMR sheet of candidates using Eraser, Blade, Nail or White Fluids/Whitener to smudge, scratch or damage in any manner the Answer Sheet shall be cancelled.

9. Candidates are warned not to carry handkerchief, any mobile phone, any type of watch, belt, wear ornaments like ring, chain, earring etc, electronic or communication device, Pen, Pencil, Eraser Sharpener and correcting Fluid in the examination centre. If any candidate is found possessing any such item, he/she will not be allowed to enter in the examination centre. Candidate found possessing mobile phone and any other aiding material as mentioned above in the examination room will be treated a serious violation and it will amount to cancellation of the candidature and debarring him/her from future examination. Use of Eraser, nail, blade, white fluid/whitener etc, smudging, scratching or damaging in any manner the OMR answer sheet shall lead to cancellation of

candidature and such OMR answer sheet shall not be evaluated.”

It is also apt to reproduce clause 7 of the instructions of the OMR which reads as under:

“Candidates have to answer questions from the multiple choice of answer A,B,C or D. Select the right answer of each question and darken the correct bubble on the OMR answer sheet. Once darkened changes are not permitted. Use of Eraser, Nail, Blade, White Fluid/Whitener etc to smudge, scratch, damage in any manner on the OMR Answer Sheet during Examination is strictly prohibited & it's use anywhere shall lead to cancellation and such OMR Answer Sheet shall not be evaluated.”

It has come on record that the candidates were specifically instructed to adopt the manner in which answers were to be marked and similarly they were prohibited not to use fluid or scratch the OMR sheet but the petitioner has erased/smudged the answer on OMR sheet thereby violating the terms and conditions printed on the admit card, question paper and the OMR sheets.

Besides, a Division Bench of this Court has dismissed the appeal bearing LPA No.92 of 2017 titled as Anshu and Ors. Vs. State of Haryana and another on 20.01.2017 (R.2/4) while dealing with the identical controversy and held as under:

“ It is evident that the specific guidelines were provided to the candidates to adopt the manner in which answers were to be marked and similarly they were cautioned not to use fluid or scratch the OMR sheet, but in complete violation of the instructions the answer books were found to be smudged with double

marking and even erasing fluid was used as also tampering with the nail/blade. Having done so the appellants cannot claim any prejudice if strict action has been taken by cancellation of their OMR sheets altogether. Such guidelines are issued as OMR sheets have to be evaluated by a computer which may not respond appropriately in view of abrasions and tampering. The learned Single Judge has rightly discarded the plea of the appellants in the impugned order and we, finding no infirmity therein, would also decline interference, particularly when it is expected of the candidates to be conscious of the guidelines and instructions issued by the examiner in the selection process which has to be thoroughly respected”

Even the SLP bearing No.12169 of 2017 filed against the said order has also been dismissed by Hon'ble Supreme Court upholding the order of this Court.

Keeping in view the observations made by Division Bench of this Court, which have been maintained upto Hon'ble Supreme Court, no case is made out warranting interference by this Court.

Dismissed.

August 06, 2018
manoj

(RITU BAHRI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable : Yes/No