

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

Date of decision: 27.05.2019

1). CWP-10978-2018 (O & M)

Jaswinder Singh and ors. Petitioner(s)

V/s

State of Punjab and ors. ...Respondent(s)

2). CWP-9661-2018 (O & M)

Rohit Lotia and ors. Petitioner(s)

V/s

State of Punjab and ors. ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Yagyadeep, Advocate and Mr. Anurag Goyal, Advocate,
for the petitioners (in CWP-10978).

Mr. R.K. Malik, Sr. Advocate,
with Mr. Sunil Hooda, Advocate,
for the petitioners (in CWP-9661).

Ms. Anu Chatrath, Addl.A.G., Punjab
with Ms. Ambika Bedi, AAG, Punjab.

Rajan Gupta, J. (Oral)

CM-8315-CWP-2019 in CWP-10978-2018

Application for placing on record documents, Annexure P-8 and P-9, is allowed as prayed for. Same are taken on record. Registry to page-mark the paper-book accordingly.

CWP Nos.10978 and 9661 of 2018

This order shall disposed of above-mentioned two writ petitions

Petitioners have posed a challenge to the recruitment process for PCS (Executive) Examination on various grounds. It is contended inter alia that as per Punjab Civil Services (Executive Branch) (Class I) Rules, 1976 (hereinafter to be referred to as 'the Rules'), there was no bar in the number of attempts that a candidate could avail for appearing in the PCS (Executive) Examination. There was no power vested in Punjab Public Service Commission (for short 'the PPSC') to act in contravention of the Rules and issue its own instructions limiting the number of chances to four. This apart, it has been pointed out that as there having a change in the syllabus in the years 2012 and 2013, candidates are entitled to more chances as is the practice in Union Public Service Commission (for short 'the UPSC'). Reference has also been made to a recommendation published in a newspaper 'Hindustan Times' dated September 29, 2016 wherein Commission recommended unlimited attempts for the candidates but suggested the age limit to be reduced from 37 years to 35 years. It has also been urged that in the PCS (Judicial) Examination, there is no such bar of four attempts. Thus, on the same analogy, candidates appearing for PCS (Executive) Examination need to be granted unlimited chances to appear.

Learned State counsel seeks to place on record reply by way of affidavit of Harbans Singh, Deputy Secretary to Government of Punjab, Department of Personnel. Prayer is accepted. Reply is taken on record. Ms. Jasleen Kaur Sandhu, Secretary, PPSC, is present in court. She has pointed out that PPSC is acting pursuant to the Rules enacted in the year 2009 namely Punjab State Civil Services (Appointment by Combined Competitive Examinations) Rules. According to her, PPSC has not issued

any advertisement which conflicts with the State Rules. As regards the recommendation for unlimited attempts, same has not been accepted by the Government till now.

I have heard learned counsel for the parties and given careful thought to the facts of the case. Initially, the petition was filed by a number of petitioners. By virtue of interim order dated 21 April, 2018 (passed in CWP-9661-2018), they were provisionally allowed to appear in the process of examination subject to outcome of the writ petition(s). Most of the candidates failed either in the preliminary or in the main examination. Only two candidates have qualified for interview/viva voce. The matter needs to be adjudicated upon as the right of these two candidates has to be determined. Rule 5 of Punjab State Civil Services (Appointment by Combined Competitive Examination) Rules, 2009 reads as under:-

“5. Number of Attempts at the Examination:- *Unless covered by any of the exception, which may from time to time, be notified by the Government in this behalf, every candidate appearing for the examination after the commencement of these rules, shall be permitted to avail four attempts at the examination.*

Explanation:- *For the purpose of this rule, an appearance of a candidate in the preliminary examination, shall be deemed to be an attempt at the examination.”*

Aforesaid Rules have been issued by the Governor of Punjab exercising the powers conferred on him by the proviso of Article 309 of the Constitution of India. The said Rules have been enacted to conduct the examination, to regulate the recruitment and conditions of service of persons appointed to the service. Rule 11 thereof provides that the Rules would have

overriding effect notwithstanding anything inconsistent therewith contained in any other rules for the time being in force relating to the conduct of examinations for making appointment to the services.

The contention of the petitioners, thus, that Punjab Civil Services (Executive Branch) (Class I) Rules, 1976 still have some relevance, does not hold force. It is evident that PPSC issued the advertisement in consonance with the 2009 Rules. As regards the recommendation made by PPSC for unlimited attempts and reduction of age, that has yet not been accepted by the Government. As regards increasing number of chances in view of change in syllabus in the years 2012 and 2013, the matter is purely within the domain of the State being a policy matter. This court would not entertain any such plea unless there is something on record to show that there is recommendation by the Commission on these lines. No analogy can be drawn from the examination process relating to PCS (Judicial) Examination as the instant Examination is governed by a separate set of Rules. Petitions are, thus, without any merit and are hereby dismissed.

May 27, 2019
sukhpreet

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No