

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 7897 of 2016

Date of decision : 14-01-2019

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Neelam

.....Petitioner

Versus

State of Haryana and another

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. M.S Rana, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. Rajesh K. Sheoran, Advocate for respondent no.2.

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RITU BAHRI, J.

The petitioner is seeking directions to the respondents to declare him as qualified in HTET (2014-15), Level-I (PRT) examination held in November 2015 by compensating with the two grace marks in lieu of the discrepancy in answer (option) of question no. 35 and 52.

The petitioner appeared for HTET (Haryana Teacher Eligibility Test) Level-1 for 2014-15 examination in the month of November, 2015 which was conducted by respondent no.2. The copy of the question paper booklet is attached as Annexure P-1. The result was declared on 18.12.2015 and petitioner was declared to be scoring 89 marks. After the results, the petitioner was surprised that her result is not correct as per question solved by her in the examination held in the month of November 2015. The copy

of the answer key Set-D is attached as Annexure P-2. After the result, the petitioner paid the fee of Rs.500/- for demanding her answer sheet copy and when the petitioner checked her result, she found that her result was not correctly prepared. The petitioner found in her answer sheet copy, that the question at serial no.21 show the option as no.2 and in the same question in the year 2012-13 set E at serial no.23, the correct answer was shown as option no.1 which shows the gross negligence of respondent no.2. Regarding question no.21 and two other questions no. 35 and 52, petitioner made a complaint on the website of respondent no.2. When no action was taken on this complaint, petitioner gave a legal notice dated 24.12.2015 (Annexure P-3) to respondent no.2. To this notice, respondent no.2 gave reply dated 11.01.2016 (Annexure P-4 Colly.) admitting their mistake regarding question no.21 and the petitioner was granted one mark but with respect to questions no. 35 and 52, the Board declined any correction or granting any marks. Respondent no.2 uploaded the fresh result (Annexure P-5) of the petitioner on the website where the petitioner was again granted 89 marks instead of 90 marks. Thereafter, the petitioner sought RTI information from the State Council of Education Research & Training, Haryana, Gurgaon regarding the answers of the questions no. 35 & 52. As per the RTI information dated 18.3.2016 (Annexure P-6) sought by the petitioner, all the options of questions no. 35 & 52 were incorrect. The petitioner placed on record book of 10th Class (Annexure P-7) and as per this book, the options of the questions no. 35 were found to be incorrect. Hence, the petitioner is praying that he should be granted two

marks for the above said two questions and if she is compensated with 2 marks, she gets 91 marks and she will qualify HTET Level-I examination as she already secured 89 marks.

On notice, written statement has been filed on behalf of respondent no.2, taking the stand that the petitioner has challenged the correctness of the answers of questions no. 35 and 52 of Set-D of Level-1 (PRT) in the answer key. A Committee of subject experts consisting of Head of Departments Professors, Associate Professors, Assistant Professors working in Universities/Colleges/NCERT in the State of Haryana and other adjoining States were constituted by the Board to analyze the answers of the questions disputed by the candidates. As per reports received from the committee of experts, no discrepancy was found in respect of Answer of question No.35 and 52 Set D and the option as given in the answer key were found to be correct answer. They have placed on record the judgment passed by this Court in **Savita Kumari and another vs. Board of School Education, Haryana, Bhiwani and another** (CWP No. 4738 of 2012) decided on 25.7.2012 where dispute arose on account of some questions with regard to examination conducted by Board of School Education for Haryana Teachers Eligibility Test 2011 (for short 'HTET'). Those questions were contained in para 5 of the question paper which dealt with environment studies and the Board has got those examinations examined from the Experts and the Expert Committee found that some of the questions required very basic knowledge of answer and the writ petition was dismissed by making reference to the Supreme Court Judgment in the case

of *Himachal Pradesh Public Service Commission Versus Mukesh Thakur and another (2010) 6 SCC 759*, wherein it has been held that providing selection process is the function of the statutory authority and the said process should be left to that authority. In such circumstances, the Court would not transpose its opinion so as to substitute the correct answers in the answer key. It would not be permissible for High Court itself particularly when the Committee has assessed the candidates. Some of the petitioners, thereafter filed LPA No.1956 of 2012 titled 'Sameer Khurana vs. Board of School Education, Haryana. Vide the Judgment dated 16.1.2013, the judgment dated 25.7.2012 was upheld by observing that no fault can be found with finding recorded by the learned Single Judge. Further the candidates who have qualified the HETE examination have also attempted the same question papers and have been successful. Thus there is no scope for interference in the impugned order in the Letter Patent Appeal. Thereafter some of the petitioners filed SLP No. 30026-30029 of 2013 in Hon'ble the Apex Court. The said SLP was also dismissed on 25.7.2014

Heard counsel for the parties and carefully gone through the records of the case. Recently, in the case of *Sushma Rani vs. state of Haryana and others (CWP No. 16817 of 2018)* decided on 12.7.2018, this Court was examining a case where the petitioner scored 89 marks as against minimum 90 marks required in the general category to make the cut in the Haryana Teachers Eligibility Test which made the petitioner ineligible for selection to the post of PGT (Chemistry). She raised objections with regard to Question No. 26 and 30 and 37. The petitioner claimed that the answer

keys in respect of questions No. 26 & 30 were wrong while for question No.37, the Commission had chosen to give two options as correct, whereas the answer should be one as per terms of the advertisement. The writ petition was dismissed while observing that *no benefit of grace marks could be given out of sympathy as the competition was razor sharp as it would open up Pandora's Box with everyone in running entitled to equal treatment which may have to be given to all which course if adopted would only frustrate and delay the selection process thereby seriously jeopardizing public interest in the matter of public appointments to Government service by way of direct recruitment.*

Applying the ratio of the judgment in ***Sushma Rani's case (supra)*** to the facts of the present case, this petition deserves to be dismissed. As per reports received from the committee of experts consisting of Head of Departments Professors, Associate Professors, Assistant Professors working in Universities/Colleges/NCERT in the State of Haryana and other adjoining States constituted by the Board to analyze the answers of the questions disputed by the candidates, no discrepancy was found in respect of Answer of question No.35 and 52 Set D and the option as given in the answer key were found to be correct answer.

In view of all that has been discussed above, the present petition is dismissed.

14-01-2019

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(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No