

CWP-24164-2016 and other connected cases

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

**Date of Decision: May 22, 2019
CWP-24164-2016**

Swarn Singh

... Petitioner

vs.

**Punjab Scheduled Caste Land Development and Finance Corporation &
Another**

.. Respondents

CWP-2344-2017

Karanjeet Singh

... Petitioner

vs.

State of Punjab and Ors.

.. Respondents

CWP-2574-2017

Rohit Sharma

... Petitioner

vs.

State of Punjab and Ors.

.. Respondents

CWP-2582-2017

Rajpal Singh

... Petitioner

vs.

State of Punjab and Ors.

.. Respondents

CWP-2492-2017

Tehal Singh

... Petitioner

vs.

State of Punjab and Ors.

.. Respondents

CWP-2463-2017

Sudhir Kumar

... Petitioner

vs.

State of Punjab and Ors.

.. Respondents

CWP-3223-2017

Gurwinder Pal Singh

... Petitioner

vs.

State of Punjab and Ors.

.. Respondents

CWP-24164-2016 and other connected cases

CWP-23796-2016 (O&M)

Gurwinder Singh

... Petitioner

vs.

State of Punjab and Ors.

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. G.P.S.Bal, Advocate;
Mr. Abhilaksh Grover, Advocate for
Mr. H.C.Arora, Advocate;
Mr. Dinesh Kumar, Advocate with
Ms. Shikha Singla, Advocate
for the petitioner.

Mr. Abhaypal Singh Gill, AAG, Punjab.

Mr. Gautam Thapar, Advocate
for respondent-Corporation.

Mr. Gurinder Singh, Advocate
for respondent- Thappar University.

Mr. Parvesh K. Saini, Advocate.

ARUN MONGA, J.(ORAL)

1. All the above referred writ petitions are being disposed of by this common order as the factual and legal aspects in all the petitions are similar.

2. For brevity, facts taken from CWP No. 24164 of 2016 are that for filling up different categories of vacancies with respondent No.1, an advertisement was published in July, 2016 by its nodal agency-respondent No.2. The petitioners in the above-referred writ petitions applied for the post of Peons under their respective reserved categories. The selection to the post of Peon was to be made on the basis of marks obtained in the written examination, which was based on multiple choice questions with provision of negative marking in case of wrong attempting of answer.

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3. It is the case of the petitioner that he applied against the six posts reserved for the Scheduled Castes category and secured 83.75 marks in the written examination. On account of objections raised by candidates regarding answers pertaining to questions No. 44, 67 and 95, the result was revised by respondent No.2 and his marks were reduced to 81.25 as per the revised result declared on 27.10.2016. The things do not rest here. Respondent No.2 again revised the result on 07.11.2016 and one more mark was shredded, taking his score to 80.25.

4. The grievance of the petitioner is that he must be on the top position under SC category with 83.75 marks but the reduction in the marks made by respondent No.2 without hearing him, has resulted into his exclusion from the zone of consideration to participate further in the selection process and that respondents have resorted to an erroneous method while amending the answers to the disputed questions No. 44, 67 and 95 and on account of negative marking his result has been adversely affected.

5. In the return, respondent No.1 admit about publication of employment notice through respondent No.2 and the selection process being undertaken by the latter. But it is denied that petitioner has been deliberately ousted from the selection process. It is denied that the petitioner ever secured 83.75 marks, as claimed. It is averred that answers to some of the questions, which were given wrong in the answer key, were set right or were cancelled. As a result of modification in the answer key, the marks obtained by the petitioner were not such that he could be considered for participating in further selection process and thus, he was rightly excluded from the zone of consideration.

6. Short affidavit on behalf of respondent No.2 is filed, wherein it is

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denied that the result was ever revised. It is averred that before finalizing the result, objections were called from the candidates and after considering the objections with the advice of Experts, final result was displayed on 07.11.2016.

7. Similar are the facts of CWP No. 23796 of 2016 wherein the petitioner has claimed that his marks have been wrongly reduced to 82.25 from 84.50 and he has been ousted from the selection process.

8. In CWP Nos. 2344, 2463, 2492, 2574, 2582 and 3223 of 2017, petitioners therein have sought directions to the respondents to consider them for appointment to the post of Peon under their respective categories as their names figure in the final merit list. In other words, they are benefitted from the revision of result and have come within the zone of consideration.

9. Learned counsel for the petitioners in CWP No. 24164 and 23796 of 2016 submit that respondent-University was assigned the task for carrying out the selection process, but it unilaterally revised the result in an arbitrary manner and before resorting to it, respondent University did not adhere to the guidelines laid down by this Court in **Ramandeep Kaur Vs. Council of Scientific and Industrial Research (CSIR) 2017(4) SCT 329**, as the objections received were never published on the website and no opportunity was granted to the affected candidates to file cross-objections thereto.

10. Learned counsel further argue that when there was no clarity on the answer to the questions in issue, to avoid any confusion and complication, the recourse available to respondent -University was to cancel the questions and not to deduct the marks of the candidates who had attempted the same. According to them, though the petitioners attempted the possible right answers to the disputed questions, still due to wrong opinion as to the

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answers, negative marking has been done, which adversely affected the outcome of their respective merits.

11. Learned counsel for the petitioners in CWP Nos. 2344, 2463, 2492, 2574, 2582 and 3223 of 2017 have urged that despite the petitioners having successfully completed the selection process, they have not been issued their appointments letter and the respondents have stalled the entire selection process while misinterpreting the interim directions issued by this Court.

12. Per contra, learned counsel for the respondent(s) have justified their action of amending the answer key. According to them, objections were invited and opinion about the correct answers to the disputed questions were obtained from the experts in the field and, thereafter, the merit list was finalized and it was never ever revised, as claimed by the petitioners.

13. After hearing the arguments of learned counsel for the parties the position that in the facts and circumstances, the fair and just-position which emerges is that the erroneous three questions, which are the bone of contention in the present writ petitions, should not to be considered for evaluating the marks obtained by the candidates, who appeared in the written examination on 09.10.2016, pursuant to the advertisement for recruitment to the vacant post of Peons in respondent No.1-Punjab Scheduled Caste Land Development and Finance Corporation. Moreover, the respondent failed to prove on record that the disputed questions were properly evaluated. Mere saying that the objections were invited from candidates does not suffice.

14. In the premise, I am of the view that in case, the three questions are taken out of the preview of evaluation across board for all the candidates whether, the ones who attempted the answers or the ones who did not attempt,

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would not change the performance parameters of the candidates who took the examination.

15. In view thereof, the writ petitions are disposed of with a direction to respondent-Thappar University to re-evaluate all the candidates by excluding and not considering the aforesaid three questions and prepare fresh merit list and Corporation is also directed to proceed on the basis of the fresh merit list, so prepared.

16. Let needful be done within a period of three months from the date of receipt of certified copy of this order.

May 22, 2019
smriti

(ARUN MONGA)
JUDGE

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