

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

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**CIVIL WRIT PETITION NO.4132 OF 2020
DATE OF DECISION: MARCH 13, 2020**

Kawaljeet Singh

.....Petitioner

VERSUS

State of Punjab and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Naveen Batra, Advocate,
for the petitioner.

Mr. Mehardeep Singh, Addl.Advocate General, Punjab,
for the State.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court with a grievance that there has been a bonafide mistake on his part in darkening the series while filling up the aptitude test of DPE Paper I. Because of the said act on the part of the petitioner, his candidature was not duly assessed. He, however, on the basis of the result declared asserted that had the mistake not occurred, he would have secured about 142 marks in the backward class category and the last selected candidate in the said category has obtained 139 marks. Since the petitioner has more marks, he was entitled to be considered for appointment to the post of D.P.E Masters.

Upon notice having been issued, the respondents have filed an affidavit, wherein the stand taken is that the petitioner has wrongly

highlighted the answer key sheet. Since the papers were not checked manually but were through OMR answer sheets on the basis of darkening of the oval of the relevant series, the petitioner has not been found to have secured the requisite marks. However, the fact that the petitioner has rightly mentioned the series as 'D' in the answer sheet, although he had darken the oval at series 'C' in the OMR sheet is not in dispute and, thus, the petitioner would have secured marks on the basis of the answers attempted by him.

When the case came up for hearing on 28.02.2020, counsel for the State, on instructions from the official present, informed the Court that all the backward class category seats have been filled up and none of the posts is lying vacant, against which the petitioner can be accommodated.

In response thereto, the petitioner, on 03.03.2020, has filed an affidavit dated 02.03.2020, according to which three seats were lying vacant, against which the petitioner could be accommodated.

In response thereto, today an affidavit of Assistant Director, Education Recruitment Directorate, Department of School Education, S.A.S.Nagar, has been filed in Court, wherein this aspect stands admitted. As per the stand of the respondents, three candidates, who were selected as D.P.E. Masters/Mistresses, were also selected as Lecturers, Physical Education, which posts they have joined and because of that the posts of D.P.E. are still vacant.

In the light of the above factual position, the present writ petition is disposed of with a direction to the respondents to assess the marks of the petitioner on the basis of he having proceeded to have attempted series 'D', which was admittedly allotted to him and in case he is found to have made the grade and there is no other person above him on

merits, the offer of appointment be issued to him within a period of one week from today.

Copy of the order be given *dasti* under the signatures of the Bench Secretary of this Court to counsel for the State.

March 13, 2020
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

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