

***LPA No.1283 of 2015(O&M) in
CWP No.3283 of 2013***

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Date of Decision:-2nd March, 2020

LPA No.1283 of 2015(O&M) in

CWP No.3283 of 2013

Ajit Pal Singh.

.....Appellant.

Versus

State of Punjab & Ors.

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present:- Mr. Anupam Gupta, Senior Advocate assisted by
Mr. Ashok Kumar, Advocate for the Appellant.

Mr. Shireesh Gupta, Senior Deputy Advocate General, Punjab.

JASWANT SINGH, J.

1. Appellant-Ajit Pal Singh, an aspirant for the post of PCS (Ex. Br) and other allied services, whose examination was conducted in the year 2009, has preferred the instant intra court appeal under Clause X of the Letters Patent, impugning the Judgment dated 23.01.2015 passed by Ld. Single Judge, whereby his writ petition was ordered to be dismissed.

Ld. Counsel for the appellant has vehemently argued that in the instant case, the findings returned by Ld. Single Judge that there is no ambiguity in the marking of answer-book of the appellant and that the only

over-writings that have been done, were on account of correction of an error, are patently and *ex-facie* wrong and untenable. It is submitted that a mere glance at the answer-book of the appellant in paper-I of Punjabi Literature would show that both the original marking/evaluation inside the answer-book and that on the cover page of the answer-book has been clearly and consciously tampered with. Consequently, the said tampering cannot be described as correction of an error. It is further argued that as per the “Instructions for the Evaluators and the Head Examiners” (Annexure P-14) prescribed by the Public Service Commission strongly negate and belie the defence put up by the Commission in its reply to the writ petition because as per clause 15 and 16, there should not be any cuttings and over-writings by examiners while evaluating the answer sheet. Finally, it is argued that re-evaluation of answer sheets can be allowed, in case there is apparent fraud being played upon the court, as is there in the instant case. Hence prayer has been made for allowing the instant appeal and order re-evaluation of questions.

On the other hand, Ld. Counsel for the State has argued that there is no ambiguity in the entire process of evaluation and selection. It is submitted that there is no provision for re-evaluation of the answer sheets in Competitive examination and further that evaluation was carried out by Subject-Experts with no allegations of mala-fide by any of the candidate except petitioner. Consequently, he has prayed for dismissal of the instant appeal.

2. Having heard Ld. Counsel for parties at length and scrutinized the paper-book with their able assistance, we do not find any error in the

Admittedly appellant had qualified in the written examination and was called for interview. It is after having participated in the entire selection process, including interview, the petitioner has prayed for re-evaluation of his answer-booklet pertaining to paper-I of Punjabi Literature on the basis of cuttings and alterations made in the marks awarded to him in two questions. In such a situation, we are of the opinion that unless and until a clear cut case of fraud or malice is not made out, we cannot interfere in such an evaluation of the answer sheets.

However, on perusal of pleadings and facts of the instant case, we are of the view that present case does not fall in such a category. A bare perusal of the pleadings in the writ petition would show that it is completely bereft of material particulars of fraud. It was incumbent upon the appellant to plead and demonstrate, without doubt, that he has been wrongly not selected on account of clash of interest with any examiner/ examining body, who did not want him to get selected; or that in order to accommodate some other candidate, appellant has been singled out. None of the said material particulars have been pleaded. Once that is so, we are afraid that the prayer made by appellant for re-evaluation on account of “fraud/ malice” is not made out.

3. Furthermore, it is evident from the record that the scheme of evaluating the answer sheets has a scientific/ logical backing, whereby a senior professors/Associate Professors of reputed University were assigned the role of examining particular questions, so as to have uniformity in checking, with the Head Examiner being the final authority to avoid skewness of marks. It would be beneficial to reproduce the relevant lines of

Commission in its reply dated 1.10.2013:

“ Whereas, in descriptive exams, evaluators, who are senior Professors/Associate Professors from reputed institutes are called and assigned the task of evaluation. These subject experts evaluate the answers on the basis of table marking system i.e. in a particular subject the Professors are allocated questions for evaluation. After the allocation, the concerned Professor will evaluate only the allocated Questions for all the candidates. This is to ensure uniformity of marking so that all the candidates for the allocated question(s) are evaluated by the same examiner. Further there is a provision of a Head Examiner for each subject. His/her duty is to ensure that the marking/evaluation by the evaluators is being done according to general instructions and guidelines communicated to them. It is also ensured by the Head Examiner that there is no skewness in giving marks, that all questions have been marked correctly that the calculation of total is right and that no question is left unmarked etc. Therefore, the Head Examiner is well within his capacity to increase or decrease the marks while performing his/her duty. And accordingly in few cases, some cuttings/over writings do take place. But the same cannot be attributed to any malafide on his/her part.

Also it's important to mention that being descriptive exams, there cannot be a straight jacket answer to each question as it is in the case of objective OMR bases exams. The evaluation of descriptive exams checks among other things usage of appropriate words, ability of the candidates to analyse, correct and meaningful expression, effective framing of sentences, relevance of the content of the answer to that of the question etc.

Therefore, it is absolutely incorrect and baseless to make comparison of answer attempted by the different candidates and sit over analysis over the marks allocated to each one of them. This is because the same process has been followed in the evaluation of answer sheets of all the candidates and the task was entrusted to independent experts/examiners. Therefore, there cannot be any doubt on the marking done by the subject experts. ”

4. Additionally, during the pendency of the appeal, another short affidavit dated 18.07.2016 has been filed by respondents, whereby report dated 10.06.2016 of Head Examiner Dr. Satnam Sandhu and one of the examiner namely Shri Gurmukh Singh, Associate Professor, Punjabi University has been attached as Annexure R-II. A perusal of the said report shows the manner in which marks were evaluated by the examiner/s. Relevant portion of the said report dated 10.06.2016 is reproduced as under:

“ Head Examiner & Examiner has submitted the following report on dated 10.06.2016 at the office of Punjab Public Service Commission, Patiala:-

1. Answer sheets of the paper Punjabi Literature paper-I of Punjab State Civil Service, Combined Competitive (Main) Examination after evaluation had been submitted to Head Examiner for re-evaluation. After re-evaluation by the Head Examiner, the difference of marks has been corrected with the consultation of the Examiner as per requirement. In the case of concerned candidate/petitioner in the paper of Punjabi paper-I part ③ question no.3, happens like that, i.e. the marks have been corrected from 17 to 14.
2. During re-evaluation by the Head Examiner in the particular answer of concerned candidate the examiner had given 17 marks, whereas as the candidate had made so many errors at the preliminary level of language i.e. he has not put the

grammatical sign Bindi (.) under the word (ਫ) The actual word is ਭਾਸ਼ਾ but in all the answer he has wrote it as ' ਭਾਸ਼ਾ '. The candidate has not taken care of grammatical rules.

3. The candidate has made grammatical common errors while making plural of the words i.e. he has wrote the word ' ਕਿੱਤਿਆ' but the actual word is ' ਕਿੱਤਿਆਂ'. There are so many other grammatical errors. Such the word is ਵਿਸ਼ੈਸਤਾਵਾਂ has been written as ਵਿਸ਼ੈਸਤਾਵਾਂ.
4. Inspite of these errors, the candidate has given the answer elaborately, that is whey he has been given 14 marks.
5. The grand total of marks is done with the help of sub examiners. But checking/correction at the same is done by head examiner with green ink pen. As per requirement the correction has also been done. In the case of answer sheet under question, the same has been done.
6. Question No.5 & 6 had been checked by Dr. Balkar Singh, Associate Professor, Punjabi Deptt., Punjabi University Patiala. But due to his death, the opinion could not be submitted. ”

Consequently, it is seen that there can be incidents where cuttings/ over-writings can take place. It is settled position of law that sympathy does not have any role in selection matters because there would always be a candidate who has missed out by a whisker. This, dissatisfaction cannot drive the Courts to start a roving inquiry and derail the selection process, especially when there are no material particulars pointing towards discrimination against the aggrieved candidates.

5. Additionally, once the Ld. Single Bench had perused the original answer-booklet itself, whose photocopy has been perused by us as

well, we do not see any reason to interfere in the factual aspects already considered by the Single Bench. The instructions (P-14) issued by the Commission to the examiners cannot be considered as final, because till the time humans continue to work, deviation from instructions are bound to happen, as it has happened in the instant case.

In view of above, finding no merit, instant appeal is hereby ordered to be dismissed, with no order as to costs.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

March 2nd, 2020
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>