

CWP-12607-2021

118

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-12607-2021

Date of Decision: 14.07.2021

MOHIT RATHI

...Petitioner

Versus

HARYANA PUBLIC SERVICE COMMISSION,
BAYS 1-10, SECTOR-4, PANCHKULA THROUGH
ITS CHAIRMAN

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Anurag Goyal, Advocate, for the petitioner.

Mr. Kanwal Goyal, Advocate , for the respondent-Commission.

Mr. Saurabh Mohunta, D.A.G., Haryana.

(Presence marked through video conference).**ARUN MONGA, J. (ORAL)**

Petition herein, *inter alia*, is for issuance of a writ in the nature of *certiorari* seeking to impugne a letter/ order dated 08.02.2021 (Annexure P-23), passed by the respondent-Commission, wherein it is stated that no further action is required to be taken on the legal notice served by petitioner. Further, a *mandamus* is sought directing the respondent either to rectify, what is alleged to be mistake in valuation of his answer sheets in 'English' and 'English Essay', 'Hindi' and 'Hindi Essay' papers, in the examination conducted for Haryana Civil Services (Executive) and other Allied Services – 2017 by re-checking/re-evaluation/correction in the result after re-examination of the answer sheets including totaling and awarding marks to the un-checked answers despite being correct one or in the alternative to send the answer sheets to a panel of experts from Panjab University.

2. Petitioner participated in the recruitment process of Haryana Civil Services (Executive Branch) and other Allied Services Examination, advertised in the year, 2017. Pursuant thereto, he was declared successful in the Allied Services.

As per his merit, he was offered the post of Assistant Excise and Taxation Officer and is currently working as such, since the date of his appointment. As an

CWP-12607-2021

afterthought, vide an application dated 23.12.2019, petitioner approached the State Public Information Officer under Right to Information Act for providing certain information and documents related to the recruitment process, including seeking of re-evaluation of his answer sheets. Later, on getting no response to his RTI application, he approached the First Appellate Authority under the RTI Act. There too, he did not get any response and he then approached the State Information Commission by way of second Appeal dated 20.05.2020 to get the information sought by him.

3. The State Information Commission vide order dated 13.07.2020 in Appeal Case No.3786 of 2020 titled as *Ms. Komal Sharma and others and other similar cases vs Haryana Public Service Commission* passed the following order :-

“ The SPIO is directed to provide the certified copies of the answer sheet of all five papers free of cost, as requested by the appellants/applicant in their RTI application by masking the information about the marks awarded in figures or in words in total or on each question or any other remarks of the examiners by which the identity of the Examiner can be established.”

In compliance of the directions issued by the State Commission, the petitioner was provided photocopies of his answer sheets vide letter dated 24.08.2020. Fortified with his answer sheets, the petitioner represented to the Haryana Public Service Commission through a representation dated 12.10.2020, bringing forth, what are purported to be discrepancies, due to non-marking of some of his answers. Having got no response on the representation, the petitioner then caused a legal notice dated 08.12.2020 to the Haryana Public Service Commission, Panchkula through his Advocate.

4. Vide impugned letter/order dated 08.02.2021 (Annexure P-23), the Secretary, Haryana Public Service Commission, Panchkula, gave a detailed response to the legal notice, *inter alia*, stating that in response to the application dated 19.06.2020 submitted by the petitioner, a re-checking of his answer sheets was carried out (in the subjects of English and General Studies). Upon re-checking, it was found that there was no mistake in totaling the marks and no question was left un-checked/un-awarded as was the apprehension/allegation of the petitioner. That apart, as per the RTI request of the petitioner, subject wise total number of candidates who appeared; minimum and maximum marks obtained by all of them in all the papers of Haryana Civil Services (Executive Branch) and other Allied Services Main Examination – 2017, were also supplied to the applicant.

CWP-12607-2021

5. In course of the arguments, learned counsel for the petitioner has canvassed that petitioner be provided with a report on re-checking of his answersheets, in support of the assertion that no mistake in totaling of the marks is there and/ or no question has been left un-awarded. I do not find any grounds to interfere on that front so as to seek another report, reasons are already given in the impugned letter/order itself.

6. Petitioner's grievance that some of the questions were either un-marked or un-awarded or there was a mistake in totaling stands mitigated. Aforesaid exercise has already been carried out pursuant to his application dated 19.06.2020. It was found after re-checking that there is no mistake on either front. Petitioner is at liberty to invoke the RTI Act, in case, he wants any further information arising out of re-checking. It is not for the Writ Court to interfere under extra ordinary constitutional jurisdiction.

7. In the parting, this Court would like to observe that petitioner having been un-successful in his selection in HCS, has already been given the appointment on the post of Assistant, Excise and Taxation Officer, in accordance with his merit. It is not open for this Court to interfere in the domain expertise and/or the credibility of the examiners in adopting the mode and manner in carrying out the evaluation of the answer-sheets of the candidates. It is best left open to their expert opinion as to which candidate deserves how many marks. As far as un-awarding of any question and/or wrong totaling of the marks is concerned, the same has already been looked into, as aforesaid. Therefore, no fault can be found in the result of the petitioner.

8. Dismissed.

July 14 , 2021

gurpreet

(ARUN MONGA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No