

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

**CWP No. 11934 of 2019**

**DATE OF DECISION: 22.03.2021**

**Renu Bala**

**...Petitioner**

**versus**

**Haryana Staff Selection Commission**

**...Respondent**

**CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Ms. Sangita Dhanda, Advocate,  
for the petitioner.

Mr. Manoj Kumar Taya, AAG, Haryana.

**ARUN MONGA, J. (ORAL)**

Petitioner competed for selection to the post of Female Constable vide advertisement No.3 of 2018 dated 16.04.2018 (Annexure P-1). Pursuant thereto she was initially awarded 17.6 marks as against requisite cut off marks of 52.20 in Scheduled Caste category, in which she competed.

2. Through a representation, objecting that petitioner has been awarded incorrect marks, she requested the competent authority for re-evaluation of her marks. Upon finding no favourable response for rechecking of her marks, she approached this Court by instituting the instant proceedings.

3. On earlier occasions, in the course of hearing of the present writ petition, a co-ordinate Bench of this Court presided by Amit Rawal, J. (as he then was) passed the following orders dated 06.05.2019, 05.09.2019 and

27.09.2019 :-

**06.05.2019**

*“The petitioner has participated in the selection process for the post of Constable (female). As per the result on website, her individual marks in the written examination are 17. Grievance of the petitioner is that her OMR sheet has not been correctly assessed while awarding marks as per revised answer key.*

*Notice of motion.*

*On the asking of the Court, Mr. Kiran Pal Singh, DAG Haryana accepts notice on behalf of the respondents and prays for time to file reply.*

*Complete set of paper book be supplied to the learned State counsel during the course of the day.*

*The petitioner will go to the office of Haryana Staff Selection Commission on 9.5.2019 and she will show her OMR sheet. The petitioner can compare her answers with the revised answer key of Set I.*

*Adjournred to 18.7.2019.*

*Copy of the order be given to the counsel for the petitioner under the signatures of Bench Secretary/ Reader of this Court.”*

**05.09.2019**

*“Result produced in court today in sealed cover has been opened. Petitioner obtained 17.6 marks whereas cut off marks is 52.20.*

*Ms. Sangita Dhanda, learned counsel appearing for petitioner submits that in fact as per answer sheet, answers of 48 questions are correct.*

*Learned State counsel seeks time to file a comprehensive reply. State counsel is also directed to produce answer sheet of the petitioner on next adjourned date.*

*Adjourned to 25.09.2019*

*Liberty is granted to make mention*

*Result show to this Court has been re-sealed and given back to State counsel.”*

**27.09.2019**

*“On 06.05.2019, this Court while noticing grievance of the petitioner expressed in writ petition, had issued notice of motion and allowed her to compare answers with the revised answer key of Set I. The respondents had produced result of petitioner wherein she is stated to have obtained 17.6 marks whereas cut off marks is 52.20 under SC Category.*

*Learned counsel for the petitioner submitted that in fact, 48 questions out of 60 are correct. It is on account of that contention, this Court called upon learned State Counsel to produce OMR sheet. On 25.09.2019, OMR sheet was produced which was ordered to be compared by learned counsel for the petitioner with State Counsel. It is deciphered that 60 questions out of 100, as per answer sheet are correct.*

*It is next contended that petitioner has also not been given 04 marks for graduation and another 05 marks for socio-*

*economic criteria if given then she would be eligible in the merit list.*

*Learned State Counsel submits that it needs to be verified by filing reply.*

*I am of the view that once OMR sheet has been compared by both the counsels, an appropriate direction during the pendency of writ petition is required to be issued to Haryana Staff Selection Commission to undertake the task of re-assessment of result of petitioner after comparison of OMR sheet and as well as non-awarding of aforementioned marks.*

*Let aforementioned exercise be undertaken within a period of two weeks and it will not prevent Haryana Staff Selection Commission to call petitioner for rendering any assistance in this regard.*

*Adjourned to 14.11.2019 for arguments.*

*Reply be filed before the date fixed with an advance copy to the counsel opposite.*

*To be shown in urgent list.”*

4. Despite opportunity granted to file comprehensive reply, only a short reply dated 11.02.2020 has been filed by respondent Haryana Staff Selection Commission(HSSC) wherein the long and short of the defence taken is that final result was declared by the HSSC on 07.02.2019 and the petitioner having scored lesser marks than the requisite was rightly not called for physical screening test (PST). She cannot be allowed to undertake PST once she has failed in the written examination and, therefore, the petitioner is not entitled for any relief from this Court. Therefore, dismissal of the writ has been sought. The aforesaid stand taken by HSSC is completely irrelevant keeping in view the significance of what unfolded after filing of the aforesaid short reply as is borne out from hereinafter.

5. After passing of aforesaid order dated 27.09.2019, the competent authority conducted reassessment of the petitioner's marks as per the questions attempted by her and after comparing her performance with OMR sheets. A revised merit list was prepared by the HSSC and the same was placed on record by petitioner on or around 15.02.2021, as Annexure P-

11. An order dated 22.01.2020 passed by my Learned Brother Girish Agnihotri, J. in another similar CWP No 5221 of 2019 was also placed on record as Annexure P-12, which is reproduced as under:-

*“(1) These writ petitions primarily involve some alleged discrepancies in the result for selection of the candidates for the posts of Constable (Male) and Constable (Female) General Duty (Haryana Police).*

*(2) The primary grouse of the petitioners is –*

*(i) the relevant date for determining the eligibility to get 5 marks is the date of application i.e. 28.05.2018 (in CWP-5221-2019); (ii) while highlighting the example of 2 persons as mentioned in para 14 of the writ petition, namely, Virender s/o Krishan Chander, Roll No.9031011103, (BCA category) and Vipul s/o Hardwari Lal, Roll No.9031532392 (BCA category) who are alleged to have been wrongly awarded 5 marks, it is, inter alia, prayed to direct the respondents to verify the documents and information supplied under each head of the selected candidates as well as wait-listed candidates (in CWP-11335-2019); and (iii) to upload the complete result along with break-up of marks.*

*(3) After notice of motion, replies have been filed in some cases. Learned State counsel seeks time to file reply in the remaining cases. All respective counsels appearing for the petitioners are requested to hand over the details of the writ petitions on the issue, to the learned State counsel during the course of the day and in case copy of such writ petition(s) is not available, the same be also furnished to her.*

*(4) As regards the contention re: uploading of complete result as has already been noticed in the order dated 01.05.2019, learned State counsel submits that individual results have been uploaded. Counsel for both the parties submit that there are judgments relevant on the issue and this Court may pass appropriate orders in this regard. However, before deciding this issue, it is deemed appropriate to direct the respondents to specifically clarify its stand in the written statement as to what, according to them, are serious objections in accepting the prayer to upload the complete result along with break-up of marks. It is also the contention of learned counsel for the petitioners that there are judgments, one of which has been appended as Annexure P-8 which finds mention in the order dated 01.05.2019 passed by this Court, to the effect that the authorities, in the given circumstances, may upload the complete result with all detailed particulars, which has a facility of download and that too with a fixed period of 3 to 4 weeks.*

*(5) Post for hearing on 26.02.2020.*

*(6) Reply(ies), if any, be filed on or before the next date with advance copy to the counsel opposite.*

*(7) In the meantime, the respondents are directed to appoint a Nodal Officer who may take the particulars of the writ petitions pending; verify broadly the facts alleged and give a proposed*

*report **qua** each petitioner in each of the writ petition so that the writ petitions which are to be decided on merits are segregated and such writ petitions which, on facts, deserves to be decided can be separately disposed of. Let this exercise be done and report be submitted within 4 weeks from the date of receipt of certified copy of this order.*

*(8) Let a **dasti** copy of this order be handed over to Ms. Palika Monga, DAG Haryana for information and necessary compliance.*

*(9) Photocopy of this order be placed on the record of other connected case(s).”*

6. On being confronted with the aforesaid order, learned State counsel submits that he needs time to verify the status qua implementation of the aforesaid order. It is rather intriguing that such a procrastinating stand should be taken before the Court.

7. Be that as it may, Annexure P-11 is respondent's own official document and in case the same is not authentic and/or forged or fabricated, the petitioner is liable for the consequences. Petitioner is arrayed at serial No. 21 (in the revised merit/ mark list Annexure P-11) and is shown to have secured at of total of 57 marks as against requisite cut off of 52.2 marks.

8. Reverting to the merits of the case, perusal of the aforesaid merit list of selected candidates per Annexure P-11, leaves no manner of doubt, that marks of the petitioner have been revised to 48.00 marks. She has to be, therefore, accorded the benefit of same. Accordingly, her serial number in the merit list ought to have been changed by respondent/ HSSC. Having not done so on its own volition, this Court is hereby compelled to issue a writ of mandamus to accord the benefit of reassessment of the marks to the petitioner along with other marks which have been given to her qua her qualification of Graduation as well as Socio-economic criteria, subject of course to the petitioner's entitlement to the same in accordance with advertisement dated 16.04.2018.

9. In the parting, however, it is made clear that advertisement indeed prescribed grant of marks to the candidates with respect to these categories i.e Socio-economic and higher qualification. Neither the petitioner's qualification is disputed nor her, socio-economic category document. That being so, the writ petition is allowed with a direction to the respondent to accord the benefit of marks obtained by the petitioner as per Annexure P-11 coupled with additional marks for the aforesaid two categories and array her in the merit list in accordance with her performance. In case the petitioner is successful as per merit list categories then grant her the benefit of selection, of course, subject to the vacancy as on today, failing which, petitioner shall be forthwith accommodated on the next vacancy becoming available in future in her category.

10. Let the needful be done within a period of 90 days from today.

**MARCH 22, 2021**  
Shalini/ Jiten

**(ARUN MONGA)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No