

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.5112 of 2022

Date of Decision: March 15, 2022

Ashish Chopra

..... Petitioner(s)

Versus

High Court of Punjab and Haryana and another

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. D.K. Chopra, Advocate
for the petitioner.

LISA GILL, J.

Petitioner herein seeks re-evaluation/rechecking of his answer sheets and setting aside of the action of respondent no.2 in rejecting his request for revaluation vide communication dated 24.05.2021, Annexure P-8.

Learned counsel for the petitioner submits that the petitioner pursuant to Recruitment Notice dated 5th January 2019 inviting applications for the post of Clerks in the Subordinate Courts of Haryana, applied for the same. The petitioner took the written examination held on 10.11.2019. Learned counsel further submits that petitioner after qualifying the written examination, appeared for the Computer Proficiency Test and subsequent thereto, petitioner was summoned for document verification on 22.02.2021. The Society for Centralized Recruitment of Staff of Subordinate Courts is stated to have declared the final result for the post of Clerks on 24.03.2021. Petitioner did not figure in the final select list. Aggrieved therefrom, the petitioner sought the following information under the Right to Information Act, 2005 :-

1. Specific reason as to why the name of the applicant was not included in the Merit List.
2. Marks secured by the applicant in Part-A Objective Type Exam and Part-B Subjective Type Exam.
3. Certified copies of applicant's OMR Answer Sheet of Part-A Objective Type Exam and Part-B Subjective Type Exam.

The petitioner was informed that as he was lower in merit having secured 46 marks in the written examination i.e. 36 marks for the objective type paper and 10 marks for subjective, therefore, his name was not included in the final select list. Certified copy of his evaluated answer sheet was supplied. The petitioner feeling that his answer sheet has not been evaluated properly, requested for re-evaluation of his answer sheet and sought redrawing of the entire select list while claiming that there was only a difference of four marks between the petitioner and the last selected candidate in the general category. Petitioner's request was rejected and intimation thereof sent via e-mail, Annexure P-8. Aggrieved therefrom this petition has been filed.

Learned counsel for the petitioner has vehemently argued that evaluation of the petitioner's English subjective paper is not proper & correct as the evaluator was not able to understand the level and depth of knowledge expressed by the petitioner in the answers given by him to each of the questions. Reference has been made to the question regarding essay and the letter to the legal authorities, the precis and translation. Learned counsel for the petitioner argues that the applicable rules nowhere provide that there can be no re-evaluation of the answer sheets, therefore, rejection of the petitioner's request for re-evaluation of his answer sheet is absolutely illegal, arbitrary unreasonable and the petitioner is entitled to have his

answer sheet re-evaluated. It is thus prayed that this petition be allowed and answer sheet be re-evaluated.

I have heard learned counsel for the petitioner at length and have gone through the file with his assistance.

Learned counsel for the petitioner is unable to deny that Haryana Subordinate Courts Establishment (Recruitment and General Conditions of Service) Rules, 1997 do not provide for any re-evaluation or rechecking of the answer sheets. In fact, learned counsel for the petitioner is unable to point out any provision, Statute, Rule or law which entitles the petitioner to seek re-evaluation or rechecking of his answer sheet. It is trite to say that in the absence of any specific provision, petitioner cannot claim revaluation as a right.

The Hon'ble Supreme Court of India in the case titled 'High Court of Tripura through the Registrar General Vs. Tirtha Sarathi Mukherjee' 2019(2) SCT 117, held that the right to seek a writ of mandamus is based on the existence of a legal right and a corresponding duty with the answering respondent to carry out the public duty. In the absence of any provision, the writ Court, it is held, would exercise its powers only in a situation which is rare and exceptional. A co-ordinate Bench in similar circumstances in CWP No.10829 of 2021, titled Sunil Kumar Vs. State of Haryana and others, decided on 15.07.2021, has dismissed the writ petition filed by a candidate seeking revaluation of his paper while specifically referring to the decisions of the Hon'ble Supreme Court in Maharashtra State Board of Secondary and Higher Secondary Education Vs. Paritosh Bhupeshkumar Sheth (1984) 4 SCC 27, Pramod Kumar Srivastava Vs. Bihar Public Service Commission (2004) 6 SCC 714, Central Board of

Secondary Education through Secretary, All India Pre-Medical/Pre-Dental Entrance Examination & Ors. Vs. Khushboo Shrivastava and others 2014(14) SCC 523, Himachal Pradesh Public Service Commission Vs. Mukesh Thakur and another 2010(6) SCC 759, Ran Vijay Singh and others Vs. State of Uttar Pradesh and others 2018(2) SCC 357.

Gainful reference in this regard can also be made to a Division Bench judgment of this Court passed in **Nishant Dutta Vs. Punjab & Haryana High Court through Registrar General, Sector-1, Chandigarh and two others, 2021(2) SCT 607.**

Being fully conscious of the fact that the exercise of evaluation is not to be undertaken by the Court, the answer sheet/answers referred to by learned counsel were perused. However, learned counsel is unable to point out any exceptional or rare circumstance qua any aspect which calls for intervention of this Court, directing revaluation of the petitioner's answers sheets.

No other argument has been addressed.

Keeping in view the facts and circumstances, this writ petition is dismissed with no orders as to costs.

15.03.2022

Sunil

Whether speaking/reasoned:

Whether reportable:

(Lisa Gill)

Judge

Yes/No

Yes/No