

CWP No.8205 of 2022

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

CWP No.8205 of 2022

Date of decision : 22.04.2022

Raghav Gumber and others

.....Petitioners

VERSUS

Haryana Public Service Commission and another

....Respondents

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

Present: Ms. Tejaswini, Advocate and
Ms. Priya Deep, Advocate, for the petitioners.

Ms. Harpriya Khaneka, Advocate
for respondent No.1 – HPSC.

Mr. Kanwal Goyal, Advocate
for respondent No.2 – High Court.

AUGUSTINE GEORGE MASIH, J. (ORAL)

This writ petition has been preferred by the candidates, who are aspirants for being appointed as Civil Judge (Junior Division) and in that process, have participated and cleared the Preliminary Examination of Civil Judge, Junior Division (Entry Level) Exam in Haryana Civil Services (Judicial Branch) and are now looking forward to participate in the Main Examination of Haryana Judicial Services (Judicial Branch) 2020-21 scheduled to be held on 06.05.2022 to 08.05.2022. Their grievance is that the Preliminary Examination for the post of Civil Judge, Junior Division

(Entry Level) Exam – 2021 of the High Court of Madhya Pradesh is scheduled to be held on 06.05.2022, as notified by the High Court of Madhya Pradesh on 28.03.2022, this overlapping of the date will deny the petitioners their right to compete on a public post and they would lose an opportunity to participate in the selection process which may result in denying them an opportunity to be selected as a public employee in Judicial Services.

Assertion has also been made that the initial date of Mains Examination of Haryana Judicial Services (Judicial Branch) – 2021 was 22.04.2022 to 24.04.2022, which has been now postponed to the above referred to dates i.e. 06.05.2022 to 08.05.2022. They had no objection and grievance with regard to the earlier dates which had been fixed for the Mains Examination but with the re-scheduling of the examination which is coinciding/clashing with the Preliminary Examination of Civil Judge, Junior Division (Entry Level) Exam – 2021 of Madhya Pradesh, amounts to violation of Article 14 of the Constitution of India, as they have been discriminated against.

Another plea which has been taken is that the High Court of Madhya Pradesh, vide notification dated 28.03.2022, had notified on 06.05.2022 (Annexure P-2) for holding of the Preliminary Examination of the Civil Judge, Junior Division (Entry Level) Exam – 2021, whereas respondent No.1 – Haryana Public Service Commission (hereinafter referred to as 'HPSC') had issued a notification dated 30.03.2022 fixing the date for Main Examination, Haryana Judicial Services (Judicial Branch) by re-

scheduling it from 06.05.2022 to 08.05.2022 (Annexure P-1), which should have been taken into consideration by respondent No.1, as it was well known prior to the issuance of the notification dated 30.03.2022 that the Preliminary Examination has been notified by the High Court of Madhya Pradesh to be held on 06.05.2022. Prayer has, thus, been made for accepting the writ petition and issuance of a writ of *mandamus* directing re-scheduling of the Mains Examination of Haryana Judicial Services (Judicial Branch), 2021.

We have considered the submissions made by the learned counsel for the petitioners and with her assistance have gone through the records of the case.

The basic grievance, which has been raised by the petitioners, who have cleared their Preliminary Examination of Civil Judge, Junior Division (Entry Level) Exam and have to participate in Main Examination of Haryana Civil Services (Judicial Branch), is that while making an announcement on 30.03.2022, respondent No.1 – HPSC should have taken into consideration the fact that the State of Madhya Pradesh had already issued a notification on 28.03.2022 i.e. prior in time notifying the date of Preliminary Examination of Civil Judge, Junior Division (Entry Level) Exam, as 06.05.2022. Non-taking into consideration of this aspect has led to a situation where the petitioners have been deprived of their right to participate in any 'one' of the two examinations i.e. Main Examination of Haryana Judicial Services (Judicial Branch) or Preliminary Examination of Civil Judge, Junior Division (Entry Level) Exam of High Court of Madhya

Pradesh.

This contention on behalf of the petitioners appears to be genuine and justified at the first instance but when seen in the totality of the facts and circumstances of the present case, the said plea would fade into oblivion.

Posts of Civil Judge, Junior Division in Haryana Civil Services (Judicial Branch) were advertised on 13.01.2021. Preliminary Examination was conducted on 13.11.2021, result whereof was declared and the tentative dates for holding the Main Written Examination, Haryana Judicial Services (Judicial Branch), were announced on 04.03.2022 as 15.04.2022 to 17.04.2022. Because of certain administrative exigencies, said dates could not be proceeded with and in any case, these were mere tentative dates. The dates, thereafter, were fixed as 22.04.2022 to 24.04.2022. Numerous representations were given by candidates and taking a humane approach to the entire situation, that the Delhi Judicial Services (Preliminary Examination) was fixed for 24.04.2022, the said representations were accepted and the date postponed and afresh announcement was made on 30.03.2022 re-scheduling the Main Written Examination to be held from 06.05.2022 to 08.05.2022.

This unfortunately has clashed with the Preliminary Examination of Civil Judge, Junior Division (Entry Level) Exam-2021 of Madhya Pradesh on the basis of a notification dated 28.03.2022, according to which the said examination is now fixed for 06.05.2022. In case the petitioners had a grievance with regard to this aspect, they should have

approached the High Court of Madhya Pradesh for postponement or re-scheduling of the Preliminary Examination of Civil Judge, Junior Division (Entry Level) Exam 2021 but instead of that, they have approached this Court by way of present writ petition.

The plea of discrimination which has been projected because of the fact that on an earlier occasion, when representations were submitted by certain candidates, who were intending to participate in the Preliminary Examination of Delhi Judicial Services, their requests were accepted and the dates for the Main Written Examination postponed by respondent No.1 – HPSC, would not confer any right on them nor will it be violating Article 14 of the Constitution of India, which could be based upon the plea of discrimination as has been raised by the petitioners. Postponement of the examination on an earlier occasion does not create a vested right in favour of the candidates for seeking postponement of the date of examination on account of some other examination being scheduled for the same date or any of the said dates. In case the relief as sought by the petitioners is accepted, it would lead to an uncertain situation because there would be no certainty in case the dates as now fixed for the Main Written Examination on re-schedule, may clash with the date(s) which may be notification by any of the State High Courts for holding of their examination on the said very date. Earlier, it was the examination for the Delhi Judicial Services and now it is the Madhya Pradesh Judicial Services and tomorrow, it could be some other State's Judicial Services. The possibility of clash of dates cannot be ruled out and therefore, the plea of the petitioners cannot be accepted.

In any case, fixing of any of the dates for the examination in a given case can cause hardship to a group of candidates in case of clash of dates to various competitions/examinations. This would not *per se* lead to the conclusion that the fixation of the date itself is arbitrary. In these circumstances, the plea of the petitioners cannot be accepted.

In the judgment of the Hon'ble Supreme Court in **Malik Mazhar Sultan and another Vs. U.P. Public Service Commission and others** (2008) 17 SCC 703, directions have been issued to fill-up the vacancies to the post of Civil Judge through direct recruitment fixing a time frame for the said process to be initiated and completed. The said schedule, as fixed for this selection, could not be adhered to because of the unforeseen circumstances, wherein COVID-19 pandemic stuck over country also resulting in delaying the whole process of holding of the examination and completion of the selection process. The advertisement was issued on 13.01.2021 and the entire selection process was required to be concluded by the end of October, 2021 but because of the unprecedented situation caused by the pandemic, the entire examination schedule had to be postponed. An effort, therefore, has to be made at this stage to expedite the process of selection so that the mandate in *Malik Mazhar Sultan's* case (supra) is given effect to. Thus, it is imperative for the respondents to conclude the process of selection at the earliest preferably within the time bound manner without any compromise on the quality.

Frequent change in dates/postponement in the schedule is neither in the benefit of the examinees nor the examiners. For holding an

examination, numerous factors have to be taken note of and play an important role such as the security arrangements, relevant permissions from the concerned quarters/authorities, identification of examination centers, availability/management of manpower, sitting arrangement of the candidates, secrecy and confidentiality of the papers, etc. The entire process is not only cumbersome, expensive and tedious but has to be carried out after advance proper planning and then execution of the process of implementation thereof. The same cannot be put on hold because of the difficulties of some of the candidates.

As informed by the learned counsel for the High Court, total 3109 candidates have applied online for sitting in the Main Examination of Haryana Judicial Services (Judicial Branch). Representations have been received from total 373 candidates only which is not a huge number rather a fraction of the candidates i.e. 40, have now approached by way of present writ petition. The equity also does not fall in favour of the petitioners.

The prayer of the petitioners cannot also be accepted while seeing it from another angle. The Preliminary Examination of Civil Judge, Junior Division (Entry Level) Exam – 2021 of Madhya Pradesh is to be held on one day alone, whereas the Mains Written Examination of Haryana Judicial Services (Judicial Branch) would take three days. It is quite logical and easy for shifting or postponing of an examination which is scheduled for one day than for postponing an examination which is scheduled for a duration of three days. The arrangement which would have gone into identifying and reserving the examination centers, the other paraphernalia

CWP No.8205 of 2022

etc. for a period of three days would be much more cumbersome/difficult to manage and re-schedule than for an examination which is to be held on one day. This ground alone is good enough for not accepting the prayer of the petitioners.

In the case in hand, the examination schedule being already detailed as mentioned above, which has already been delayed, the respondents are making an effort to catch-up with the schedule for finalization of the selection and thus, avoiding uncalled delays cannot be faulted with as their endeavour is to complete the process of selection at the earliest.

In the light of the above, we do not find any merit in the present writ petition and therefore, dismiss the same.

(AUGUSTINE GEORGE MASIH)
JUDGE

22.04.2022
Harish

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No