

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

CWP No. 11519 of 2017 (O&M)

Date of Decision:27.04.2022

Keshav Kumar and another

.....Petitioners

Versus

State of Haryana and others

..... Respondents

AND

CWP No. 13676 of 2017 (O&M)

Suman Devi

.....Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vijay Pal, Advocate
for the petitioners.

Mr. Harish Nain, Addl.AG., Haryana
for respondents no.1 and 2.

Mr. Kanwal Goyal, Advocate
and Mr. Govind Tanwar, Advocate
for respondent no.3-HPSL

LISA GILL, J(Oral).

CWP No.11519 of 2017 and CWP No. 13676 of 2017, are taken up together for hearing and decision with consent of learned counsel for the parties as both these writ petitions involve an identical issue for consideration.

Petitioners in both these writ petitions seek a direction to respondent no.3-Haryana Public Service Commission (for short 'HPSC'), to award extra marks to the petitioners in the recruitment test for the post of

Assistant Professor in Commerce. Claim is for five (05) marks (in CWP No. 11519 of 2017) and six (06) marks (in CWP No. 13676 of 2017).

Petitioner no.1 in CWP No. 11519 of 2017 and petitioner in CWP No. 13676 of 2017, applied under the BCA category for recruitment to the post of Assistant Professor in Commerce pursuant to advertisement dated 16.02.2016 and petitioner no.2 in CWP No. 11519 of 2017 applied under the SC category for the said post. It is contended that answers reflected in the answer key issued by the HPSC, are not correct as per literature/books on the subject, therefore, petitioners are entitled to extra marks on this account.

It is submitted that petitioners appeared for the recruitment test held on 05.02.2017. As per note given in the question booklet, candidates appearing in the test were advised to submit their representation regarding incorrect questions/answers in respect to the Answer key, which was to be displayed within three days of the test, personally or through e-mail. Petitioners in CWP No. 11519 of 2017, it is stated raised objections regarding five questions. Petitioners in CWP No. 13676 of 2017, additionally raised objection regarding another question as well. Result of the recruitment test was declared on 17.04.2017 and candidates three times the number of vacancies were declared successful and called for interview. Petitioners, it is stated were incorrectly not called for interview. In case, they had been given the benefit of answers which were incorrectly reflected in the Answer key, they would have definitely made it to the select list.

Written statement on behalf of respondent no.3 and a short reply on behalf of respondents no.1 and 2 was filed. It is specifically stated in the written statement filed on behalf of respondent-HPSC that on receipt of objections from the petitioners and various other candidates, same were placed before an Expert Committee comprising of Professors from reputed

universities of concerned subject and all questions of question booklet of Series 'A' including questions *qua* which representations were made were placed before the Expert Committee for review and their comments. Expert committee was requested to verify all the questions and given their opinion. Five (05) questions were deleted keeping in view the opinion of the Expert Committee and result prepared accordingly. Therefore, the entire selection process, it is stated was conducted in an absolutely fair and transparent manner. It is thus prayed that these appeals be allowed.

I have heard learned counsel for the petitioners at length and have gone through the files with their able assistance.

It is a settled position that Court would not enter into this arena, which is otherwise the field of experts, until and unless rare and exceptional circumstances are brought forth. In the absence of any such circumstances, correctness of answer keys has to be presumed and in the event of doubt, benefit should go to the examination authority rather than the candidate. Gainful reference in this regard can be made to a recent decision of a Division Bench of this Court passed in **Nishant Dutta versus Punjab & Haryana High Court through Registrar General, Sector-1, Chandigarh and two others, 2021(2) SCT 607.**

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 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**.

It is thus apparent that petitioners have failed to build the foundation of their sole plea or substantiate it in any manner, leave alone point out any rare or exceptional circumstance which calls for any interference by this Court. It is a matter of record that even after discarding of the questions as recommended by the Expert Committee, petitioners have not been able to make it to the select list. There is indeed no justification for continuation of present proceedings. Present writ petitions are devoid of any merit.

No other argument has been addressed.

Accordingly, both these writ petitions are dismissed with no order to as costs.

27.04.2022
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.