

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

Date of decision: December 06, 2022

1. **CWP-22520-2017 (O&M)**

Bhanu Partap Singh

.....Petitioner

versus

State of Haryana and others

.....Respondents

2. **CWP-22536-2017 (O&M)**

Bhanu Partap Singh

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Vivek Suri, Advocate for the petitioner(s).

Mr. Saurabh Mohunta, DAG Haryana.

Mr. Arshad Ali, Advocate for

Mr. Lokesh Sinhal, Advocate for respondent No.3 in both cases.

Mr. Manish Dhankar, Advocate for

Mr. Punit Malik, Advocate for respondent No.4 in both cases.

ARUN MONGA, J. (ORAL)

Vide this common order, bunch of above-mentioned two petitions are being disposed of, since not only the facts but the issues raised therein are also similar. For brevity, recitals are being taken from CWP-22520-2017.

2. Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari seeking to quash the appointment of respondent No.4 as Assistant Scientist (Land Use). Further a writ in the nature of Mandamus has been sought seeking direction to respondents No.1 to 3 to re-evaluate the entire result of all the candidates and to make appointments as per the merit list.

3. Pledged case is that Respondent No.3 issued advertisement in the year 2015 for various posts in the Department of different streams, mentioning therein that the candidates' selection would be through an interview. Thereafter, however, said process was abandoned and it was decided that process for selection would be by conducting written test, skill test followed by an interview. Written examination was held on 17.07.2016 and result (Annexure P-3) was declared on 17.09.2016 followed by a clarification dated 24.10.2016 (Annexure P-4). Skill test and interview were conducted and subsequently, final list of selected candidates (Annexure P-7) was released. Petitioner was not selected and he sought information under RTI Act. As per information (Annexure P-9 Colly.), petitioner scored 73 marks in the written examination, but thereafter, his marks were downgraded to 59.5 without there being any complaint from any corner. As per RTI information, one answer sheet with random code No.7541 and decoded random code No.ASE-039 was tampered with by one of employees and as such official respondents on their own, re-evaluated the papers and downgraded the numbers of all the candidates. There was difference in the marks of selected candidate i.e., respondent No.4, as in the earlier evaluation, he scored higher marks i.e., 79 marks and after re-evaluation he was given 74.5 marks. In this manner, entire selection process has been vitiated.

4. I have heard rival contentions of learned counsel for the parties and perused the record.

5. On first flush, having seen the factual backdrop of the case, inasmuch as, the stand taken by the petitioner in Paras-5 & 6 of the writ petition that his marks in written examination have been reduced to his detriment under the re-evaluation process in a bid to oust him from the selection process, may

have some substance, but on a closer scrutiny, it appears otherwise. It is a case where, no doubt petitioner initially was having higher marks, but owing to wholesome corrective measures taken *qua* all the candidates across board, he had to suffer the consequences along with many of the other candidates whose marks may have reduced on the basis of re-evaluation. In fact, transparency of the procedure adopted by the selection committee is borne out from the fact that after having found irregularities, even departmental proceedings were initiated against the delinquents. It is another matter that in the departmental proceedings, enquiry report was rendered in favour of the delinquents and therefore, charges were dropped. But it is not for this Court to comment on the departmental/ judicial process *qua* delinquents as the same is not subject matter of adjudication herein. In order to appreciate the defence taken by the respondents, Paras-5 & 6 of the return dated 25.02.2018 filed on behalf of respondent No.3 is reproduced herein below:

“5. *That the contents of para 5 are admitted to the extent that initially petitioner was awarded 73 marks in the written examination. It may be pertinent to mention here that all the answer sheets were initially evaluated by the Committee consisting of Scientists of HARSAC. That thereafter complaint was received against a Scientist of HARSAC who was not a member of evaluation committee yet in order to get transparency and to maintain unbiased conduct, answer sheets were got evaluation from external experts of the level of Professor from a reputed University with the approval of the competent authority. The external experts re-evaluated all the answer sheets. As per re-evaluation the petitioner was awarded 59.5 marks. The result of the re-evaluation was prepared by the external experts and was published on HARSAC website on 17.09.2016. So far as tampering of one number answer sheet is concerned, it is submitted that one Scientist/ employee of HARSAC Centered into the evaluation hall even though she was not a member of the Evaluation Committee constituted by HARSAC authority. She took some answer sheets with her and started filling the answers with the answer key provided by the question paper setter. On receipt of the said complaint she was suspended and disciplinary proceedings under rule 7 of the Punishment and*

Appeal Rules were initiated against her. After the inquiry has been completed, the charge sheet against her has been withdrawn as the charges against her were not proved as per inquiry report. It is, however, incorrect that during re-evaluation the marks awarded to all the candidates have been downgraded. As a matter of fact, marks awarded to some of the candidates were upgraded also during the process of re-evaluation.

6. *That in reply to contents of para 6, it is submitted that disciplinary proceedings have been initiated against the delinquent employee. The inquiry has been completed, the charge sheet against her has been withdrawn as the charges against her were not proved as per inquiry report. Moreover, the candidates whose answer sheets were alleged to have been tampered has not been appointed on any post. It is, however, correct that respondent No.4 was awarded 78 marks initially and after re-evaluation he was awarded 74.5 marks. At the cost of repetition, it may be again stated that re-evaluation of answer sheets of all the candidates was got done and the result was declared on the basis of marks awarded during re-evaluation irrespective of the fact whether marks during re-evaluation were increased or decreased. It may also be submitted here that before the interview the eligibility conditions have also been followed. It may further be submitted that even though marks awarded to the respondent No.4 were decreased during re-evaluation yet he had topped the candidates screened for skill test and interview for the post of Assistant Scientist (Land Use). The list of top three candidates for the post of Assistant Scientist (Land Use) screened for skill test and interview is as below:-*

<i>Sr. No.</i>	<i>Name of the candidate</i>	<i>Father's Name</i>	<i>Roll Nos.</i>	<i>Marks obtained (max. marks 100)</i>	<i>Rank After screening</i>
<i>1.</i>	<i>Mr. Nitin Chauhan</i>	<i>Sh. S.M. Chauhan</i>	<i>ASL-347</i>	<i>74.5</i>	<i>I</i>
<i>2.</i>	<i>Mr. Rakesh Kumar</i>	<i>Sh. Ram Lochan Mandal</i>	<i>ASE-020</i>	<i>66.5</i>	<i>II</i>
<i>3.</i>	<i>Ms. Sumi Kala</i>	<i>Sh. Sushil Chanda Kala</i>	<i>ASL-343</i>	<i>65.0</i>	<i>III</i>

After a skill test and interview, Selection Committee made its recommendation for the post of Assistant Scientist (Land Use) to the competent authority which is annexed herewith as Annexure R-3/3. The said recommendation has been accepted by the competent authority and accordingly the offer of appointment has been issued to the respondent No.4.

As has already been mentioned, above result was declared as per the marks awarded during re-evaluation and marks awarded in the initial evaluation were superseded.”

6. No further affidavit and/ or replication has been filed to the above and thus, the position remains uncontroverted. In any case, given my mind that I find no irregularity in the defence, it is to be noted that neither any *mala fide* has been alleged in course of arguments nor otherwise pleaded in the writ petition. Nor is it a case of any hostile discrimination that it is merely to oust the petitioner that corrective measures were taken *qua* the entire selection.

7. No grounds for interference are made out. Dismissed.

8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

December 06, 2022

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No