

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 04.02.2022

1. CWP-25420-2021

Shubdeep Kaur Petitioner

Versus

State of Haryana and others ... Respondents

2. CWP-26078-2021

Priyanka Bhardwaj Petitioner

Versus

State of Haryana and others ... Respondents

3. CWP-26855-2021

Rahul Verma Petitioner

Versus

State of Haryana and others ... Respondents

4. CWP-26420-2021

Ishan Sharma and another Petitioners

Versus

Punjab and Haryana High Court and others ... Respondents

5. CWP-26426-2021

Akshay Jain and others Petitioners

Versus

Haryana Public Service Commission and another Respondents

6. CWP-1217-2022

Amit Petitioner

Versus

State of Haryana and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vikas Sheel Verma, Advocate
for the petitioner in CWP-26855-2021.

Mr. Harvinder Singh, Advocate and Ms. Pratibha, Advocate
for the petitioner.

Mr. Anuj Dewan, Advocate
for the petitioner in CWP-26078-2021.

Mr. Saachi Mahajan, Advocate
for the petitioner (CWP-25420-2021).

Ms. Harpriya Khaneka, Advocate
for HPSC (CWP-26855-2021, 26420-2021 &
CWP-1217-2022).

Mr. Kanwal Goyal, Advocate
for the respondent (CWP-26855-2021 and 1217-2022).

Mr. Dhiraj Chawla, Advocate
for the respondent-High Court
(CWP-25420, 26078 & 26426-2021).

Mr. Vivek Saini, Addl. A.G., Haryana.

AJAY TEWARI, J.

By way of present judgment, we intend to dispose off above said six writ petitions as common question of law and facts are involved therein. For the sake of convenience, facts are being taken from CWP-26420-2021.

2. The petitioners have challenged the result of the preliminary examination of the HCS (Judicial Branch) Examination 2020-21 for the post of Civil Judge (Junior Division) held on 13.11.2021 (Annexure P-10).

3. While issuing notice of motion vide order dated 14.01.2022, this Court observed:-

“In this case, the petitioners have challenged among others the following question which appeared in the Preliminary Exam for the post of Civil Judge (Junior Division) in the Haryana Civil Services (Judicial Branch) :-

Q.104. A beats his wife. She fell down and became unconscious. Believing her to be dead and to save himself from being arrested for murder. 'A' hanged her from the fan with a rope. Postmortem report disclosed her death by hanging. A is liable for

A) Murder
B) Culpable Homicide
C) Hurt
D) Grievous Hurt
Proposed Answer is **B**
Revised Answer is **A**
Correct Answer should be **B**

By judgments passed by this Court in *Penaaz Dhillon Vs. State of Haryana and others, CWP No.698 of 2022, decided on 14.01.2022, Shantanu Singh Batra Vs. State of Haryana and others, CWP No.26415 of 2021, decided on 14.01.2022 and Amardeep Singh Sandhu Vs. State of Haryana and others, CWP No.25977 of 2021, decided on 20.12.2021* this Court has rejected petitions of this nature by a detailed order. However, in this case there is a peculiar twist. The question which is now been challenged had earlier been set in the examination for the Suitability Test of the then available vacancies of Additional District & Sessions Judges in the State of Haryana by promotion and on that occasion the answer which has now been suggested by the petitioner was treated as the correct answer. Thus notice of motion is being issued only to maintain uniformity.”

4. While reiterating the settled proposition of law that the cases wherein challenge has been laid to the answer key, the writ Court is only to see whether the process of selection is fair and above board, we find that consistency at the end of examining body is also one of the facets of fairness. The Court is duty bound to see that the procedure adopted in evaluation of the answer scripts is not arbitrary, unreasonable and inconsistent. Once the examining body has held 'B' to be the correct answer to the afore-reproduced question in earlier exam, the same examining body cannot be allowed to change the answer in the subsequent exam in the absence of a legally sustainable explanation.

5. The fact of 'B' having been held to be correct answer in earlier process has not been denied. Counsels appearing for respondents have also not offered any reason for change of answer in the present process.

6. Thus, without going into the merits of whether option 'A' or option 'B' is correct, we are constrained to hold that since on a previous occasion option 'B' was taken to be correct by the same examining body. It would not now be possible to change that view.

7. For the aforesaid reasons, the petitions stand allowed and we find that answer key needs to be corrected qua aforesaid question No.104. Option 'B' is held to be the correct answer.

8. Further as held by the Court in CWP No.2943 of 2019, titled as '*Mahipal and others vs. State of Haryana and others*', decided on 13.02.2019, it is further directed that those candidates who have already been declared qualified to appear at the main examination, shall not be affected and only those additional candidates who reach the score of the last qualified candidate in the original result as a consequence of such re-marking shall be treated as qualified to so appear at the main examination. This benefit of being declared qualified after such re-marking shall be applicable to all candidates irrespective of whether or not they had approached the Court for not having been declared qualified in the original result.

9. Since the main cases have been decided, the pending miscellaneous application(s), if any, also stands disposed off.

(AJAY TEWARI)
JUDGE

(PANKAJ JAIN)
JUDGE

04.02.2022

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : Yes