

233

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 16.05.2023

1. CWP-11590-2019

SOMBIR

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

2. CWP-33214-2019

MOHIT KUMAR

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

3. CWP-14578-2019 (O&M)

RAKESH KUMAR

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

4. CWP-13847-2019 (O&M)

TARA CHAND

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

5. CWP-13925-2019 (O&M)

NASIR HUSSAIN

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

6. CWP-13644-2019

PURUSHOTAM

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

7. CWP-14318-2019 (O&M)

YOGENDER SINGH AND ANOTHER

...Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

8. CWP-10883-2019 (O&M)

VIRPAL

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

9. CWP-14609-2021

DEEPAK DUHAN

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

10. CWP-9638-2019

LOVE

VERSUS

STATE OF HARYANA AND ANOTHER

...Petitioner

...Respondents

11. CWP-10426-2019

RAJNI YADAV

VERSUS

STATE OF HARYANA AND ANOTHER

...Petitioner

...Respondents

12. CWP-36110-2019 (O&M)

SONU KUMAR

VERSUS

STATE OF HARYANA AND ANOTHER

...Petitioner

...Respondents

13. CWP-4652-2019

YASHVIR AND OTHERS

VERSUS

STATE OF HARYANA AND ANOTHER

...Petitioners

...Respondents

14. CWP-13208-2019

MANJEET AND OTHERS

VERSUS

STATE OF HARYANA AND OTHERS

...Petitioners

...Respondents

15. CWP-4654-2019

SONU AND OTHERS

VERSUS

STATE OF HARYANA AND ANOTHER

...Petitioners

...Respondents

16. CWP-34968-2019

SOHAN KUMAR AND OTHERS

VERSUS

STATE OF HARYANA AND OTHERS

...Petitioners

...Respondents

17. CWP-12271-2019

BALRAM

VERSUS

HARYANA STAFF SELECTION COMMISSION

...Petitioner

...Respondent

18. CWP-1404-2021

POOJA YADAV AND OTHERS

VERSUS

STATE OF HARYANA AND OTHERS

...Petitioners

...Respondents

19. CWP-18469-2021

JYOTI AND ANOTHER

VERSUS

STATE OF HARYANA AND OTHERS

...Petitioners

...Respondents

20. CWP-12736-2019

AJAY AND OTHERS

VERSUS

STATE OF HARYANA AND ANOTHER

...Petitioners

...Respondents

21. CWP-5829-2019

DINESH AND OTHERS

VERSUS

STATE OF HARYANA AND ANOTHER

...Petitioners

...Respondents

22. CWP-15092-2019

ANKIT AND ANOTHER

VERSUS

HARYANA STAFF SELECTION COMMISSION

...Petitioners

...Respondent

23. CWP-10178-2019 (O&M)

PARDEEP KUMAR

VERSUS

STATE OF HARYANA AND ANOTHER

...Petitioner

...Respondents

24. CWP-6931-2019

SULENDRA JHORAR

VERSUS

STATE OF HARYANA AND OTHERS

...Petitioner

...Respondents

25. CWP-4793-2019

MULAYAM SINGH

VERSUS

STATE OF HARYANA AND ANOTHER

...Petitioner

...Respondents

26. CWP-11048-2022

DAVID

VERSUS

STATE OF HARYANA AND OTHERS

...Petitioner

...Respondents

27. CWP-8604-2019

PRINCE TYAGI

VERSUS

STATE OF HARYANA AND ANOTHER

...Petitioner

...Respondents

28. CWP-10003-2019

PRIYANKA

VERSUS

STATE OF HARYANA AND ANOTHER

...Petitioner

...Respondents

29. CWP-10294-2019

AJAY RATHEE

VERSUS

STATE OF HARYANA AND ANOTHER

...Petitioner

...Respondents

30. CWP-14797-2019

RAVI

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

31. CWP-15216-2019

AJAY

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

32. CWP-16088-2019

MONIKA

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

33. CWP-16118-2019

VIKASH

...Petitioner

VERSUS

HARYANA STAFF SELECTION COMMISSION

...Respondent

34. CWP-16724-2019

SUMAN

...Petitioner

VERSUS

HARYANA STAFF SELECTION COMMISSION

...Respondent

35. CWP-12426-2020

MOHD. RASHID KHAN

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

36. CWP-14913-2020

RISHIPAL

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

37. CWP-17889-2020

JAGAT SINGH

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

38. CWP-19381-2020

SAURAV TANWAR

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

39. CWP-2408-2021

MUKESH KUMAR

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

40. CWP-2598-2021

ANIL KUMAR

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

41. CWP-3218-2021

RAVI

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

42. CWP-19504-2021

SANJAY KUMARI

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

43. CWP-16515-2019

HIMMAT

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

44. CWP-19330-2022

ARVIND GREWAL

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

45. CWP-3859-2020

HARIGOPAL

VERSUS

STATE OF HARYANA AND ANOTHER

...Petitioner

...Respondents

46. CWP-5169-2020

KRISHAN AND ANOTHER

VERSUS

STATE OF HARYANA AND OTHERS

...Petitioners

...Respondents

47. CWP-4163-2019

PRIYANKA

VERSUS

STATE OF HARYANA AND ANOTHER

...Petitioner

...Respondents

48. CWP-4297-2020

PARDEEP KUNDU

VERSUS

STATE OF HARYANA AND ANOTHER

...Petitioner

...Respondents

49. CWP-4431-2023

SUNIL

VERSUS

STATE OF HARYANA AND OTHERS

...Petitioner

...Respondents

50. CWP-22392-2022

MONU

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

51. CWP-4443-2023

ANKIT AND OTHERS

...Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

52. CWP-23679-2021

JUGVINDER

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. B. S. Rana, Senior Advocate with
Mr. Nayandeep Rana, Advocate and
Ms. Niharika Singh, Advocate,
Mr. Raman Chawla, Advocate,
Mr. Rajat Mor, Advocate,
Mr. Ravinder Singh Dhull, Advocate,
Mr. Vishal Sharma, Advocate,
Mr. Abhimanyu Singh, Advocate,
Mr. Mazlish Khan, Advocate,
Mr. Vikram Sheoran, Advocate,
Mr. Samrat Malik, Advocate,
Mr. Suresh Kumar Kaushik, Advocate,
Dr. S. K. Redhu, Advocate,
Mr. P. C. Yadav, Advocate,
Mr. Ram Bhati, Advocate for
Mr. Jitender Nara, Advocate,
Mr. Yash Dev Kaushik, Advocate,
Mr. Sandeep Goyat, Advocate,

Neutral Citation No.- 2023:PHHC:070661

Mr. Vijay Pal, Advocate,
Mr. J. P. Jangu, Advocate,
Mr. Kuldeep Sheoran, Advocate,
Mr. Rajesh Nain, Advocate,
Mr. Baljeet Nain, Advocate,
Mr. Raghav Sharma, Advocate,
Mr. Pardeep Kumar Sehrawat, Advocate,
Mr. Aditya Yadav, Advocate,
Mr. Parth Goyal, Advocate,
Mr. Sunil K. Nehra, Advocate and
Mr. Vishal Nehra, Advocate
for the petitioner(s).

Ms. Shruti Jain Goel, Sr. DAG, Haryana and
Mr. Kapil Bansal, DAG, Haryana.

JAISHREE THAKUR, J. (Oral)

1. By this common order, this Court proposes to dispose of the above noted 52 writ petitions as common question of law is involved in this bunch of writ petitions.

2. In brief, the facts, as are being culled out from the writ petitions, are that the process of recruitment for filling up 5000 posts of Male Constable (General Duty); 1147 posts of Female Constable (General Duty); 500 posts of Male Constable in Indian Reserve Battalions (IRBs); 400 posts of Sub-Inspector (Male) and 63 posts of Sub-Inspector (Female) was initiated by the Haryana Staff Selection Commission vide advertisement No.3/2018 dated 16.04.2018. The petitioners herein, seeking appointment, applied in terms of the said advertisement. On the basis of documents uploaded, the petitioners sought 5 marks, which were to be accorded under the Miscellaneous (10% weightage) Category (a)(ii). The said advertisement clearly specified that 5 marks would be given to a candidate, who is an orphan or a widow; a candidate being an orphan would be entitled to 5 marks in case the applicant is a first or second ward of the

deceased, whose father died before completion of 42 years of age; if the applicant is first or second ward and his/her father had died before his/her completing 15 years of age. After the written examination was undertaken and the candidates cleared PST and PMT, the result was prepared and published.

It would be pertinent to note that since final detailed result had not been uploaded on the website of the respondent-Commission, certain candidates filed *CWP No.11335 of 2019*, in which orders were passed, consequent to which, the detailed marks were uploaded. The petitioners herein on scrutiny of the said result found out that the marks under the 'orphan category' had either been wrongly given or not given, which grievance led to filing of the instant writ petitions.

3. Mr. B. S. Rana, learned Senior Advocate arguing on behalf of all the petitioners would submit that the respondents have acted in an arbitrary and illegal manner while giving marks to the candidates under the orphan category. It is argued that the petitioners herein have been denied the opportunity of getting selected to the post of Male Constable (General Duty), Female Constable (General Duty), Male Constable in IRBs, Sub-Inspector (Male) and Sub- Inspector (Female) on account of wrong award of marks under the orphan category to candidates, who were not entitled. The petitioners have been deprived of the chance of earning their livelihood.

4. During the course of proceedings in this Court, there were deliberations on the term '*orphan*', as to candidate which would be deemed to be an orphan, whether the orphan would be a candidate whose both parents have expired or whether a candidate whose mother was surviving but father has expired

would also be considered as an orphan. Though there were deliberations on this question, however, the matter was never concluded.

5. Learned Senior Advocate arguing for the petitioners laid great stress on the fact that the petitioners had been denied additional 5 marks despite they were entitled to the same being orphan i.e. first or second ward of the deceased, whose father died before completion of 42 years of age and first or second ward and his/her father had died before his/her completing 15 years of age. It is also argued that certain candidates, whose mother was alive, have been denied such 5 marks, whereas certain other similarly situated candidates have been given those marks. It is further argued that in terms of the said advertisement, the only requirement for the candidates was to upload the death certificate of their father, which would in fact reflect his age being below or above 42 years at the time of his death. It is further submitted that another advertisement i.e. advertisement No.4/2018 was issued to fill Group-D posts with the same conditions under which 5 marks were to be given to orphan or a widow and the Haryana Staff Selection Commission, in those cases, allowed 5 marks to those candidates whose father had expired and mother was alive, going strictly by the conditions as specified under the said advertisement, which is not the case here in these cases.

6. This Court after having asked for the record to be made available, the said record was produced in Court. The counsels for the petitioners were then given an opportunity to inspect the record so that they could be able to see whether or not the marks had been given to any candidate, who was not entitled to the same in terms of the advertisement so issued. After perusal of the record so produced, this Court, vide order dated 23.02.2023, took note of the fact that one candidate namely Sunil Kumar, who had uploaded only the death certificate of his

Neutral Citation No.- 2023:PHHC:070661

father, had been awarded 5 additional marks under socio-economic criteria, while his mother is alive, whereas petitioners herein, who had uploaded the death certificate of their father as required under the advertisement and their mother being alive, have been denied such marks. The relevant observations made in order dated 23.02.2023, are reproduced below:-

“The record produced today would reflect that one candidate namely Sunil Kumar, who had uploaded only death certificate of his father, has been given five additional marks under socio-economic criteria, while his mother is alive whereas petitioners herein who had also uploaded death certificate of the father as required under the advertisement and their mother being alive, have been denied the said marks.”

7. The explanation as being sought to be given was not accepted by this Court and at that juncture, learned counsel for the respondents sought time to tabulate the result again while verifying as to how many candidates had been given the benefit of 5 additional marks under the socio-economic criteria, who had submitted the death certificate of their father only while their mother was still alive, which benefit had been denied to the petitioners in this bunch of petitions. The matter was then listed for hearing on 01.03.2023. The Advocate General, Haryana, had appeared on that specified date and had sought time to re-visit/compile the entire result in order to ascertain as to how many candidates would be rendered meritless if the additional 5 marks wrongly granted to them under the socio-economic criteria are withdrawn. Consequent to the orders so passed, the exercise was undertaken by the respondents and an affidavit was filed. The entire record was then directed to be kept in a safe custody of the Director, Anti Corruption Bureau, Haryana. Learned counsels for the petitioners were then

Neutral Citation No.- 2023:PHHC:070661

permitted to inspect the record so as to point out which of the candidates had been given 5 additional marks under the orphan category while not being entitled to the same. The record was inspected by three nominated Advocates namely Mr. Ravinder Singh Dhull, Mr. Rajat Mor and Mr. Vishal Sharma, on behalf of all the petitioners and on inspection of the said record, the report was furnished to this Court. This Court observed in order dated 27.03.2023 as under:-

“Prima facie, the inspection report does not augur well as every roll number, as mentioned in the inspection report, would reveal the deficiencies of the application forms. On a comparison of the roll numbers as mentioned in the chart prepared by the Commission, roll number 9031059516, which finds mention in the inspection report as well, the scrutiny form is absent, marks not claimed in the application form and no document regarding the fatherless/orphan certificate stands attached. Roll numbers 9031179409 and 9031188903 would reflect that there is over writing on the scrutiny form and cutting in the same. Roll number 9031260136 pertains to a candidate who resides out of Haryana and has been awarded marks, whose mother is alive and no orphan certificate is attached with the form. These are just a few of the glaring examples of discrepancies in the selection process.

A copy of the inspection report has been supplied to Ms. Shruti Jain Goel, DAG, Haryana. In all fairness, she would submit that she is unable to controvert the said report at the present moment on account of the fact that she personally has not inspected the record and would be able to opine only after she has been given an opportunity to do so.

The report as submitted in Court today raises serious doubts about the process being fair, but without affording the learned State counsel due opportunity to inspect the record herself, no further orders can be passed. Therefore, Ms. Shruti

Neutral Citation No.- 2023:PHHC:070661

Jain Goel, DAG, Haryana is given permission to inspect the record which is lying sealed with the Anti Corruption Bureau on any day before 07.04.2023. At the time of inspection, Mr. Virat, Secretary, Haryana Staff Selection Commission would also be associated besides one of the three Advocates, who have submitted the report in Court today. Before inspecting the said record, Ms. Shruti Jain Goel, DAG, Haryana would give due information and intimation to Mr. Ravinder Singh Dhull, Advocate for the petitioners about the date she intends to inspect the record.”

8. In affidavit dated 14.03.2023, filed by the Secretary, Haryana Staff Selection Commission, Panchkula, an explanation of the term ‘orphan’ was given. In the said affidavit, a stand was taken that the dictionary meaning of the term ‘orphan’ is ‘a child whose parents are dead or a child who has no parents’, and that the respondent-Commission was going to treat a candidate whose both the parents i.e. the mother and father have died, as an orphan. It was also pointed out in the said affidavit that marks under that category could not be given to a candidate whose mother was alive.

9. During the proceedings in this Court, a query was raised by this Court as to how there could have been such a blatant mistake regarding awarding of marks under the orphan category and this Court was informed that at the time of scrutiny, different Scrutiny Committees, which had been constituted, applied their own interpretations as to which of the candidates would be considered as orphan. One Scrutiny Committee considered a candidate who had only a mother alive, to be an orphan, whereas the other went by the terms and conditions as specified in the advertisement. This fact was noticed in order dated 23.02.2023. Relevant observations made in that order reads as under:-

“The explanation as sought to be given by the counsel appearing for the respondent-Commission is that documents were scrutinized by different scrutiny committees and each committee applied its own yardstick to determine whether or not, a person would be eligible to additional marks under the socio-economic criteria. Again this Court finds this justification/contention as unpalatable. The respondent-Commission, which had been constituted by gazette notification under Article 309 of the Constitution of India (now got a statutory status after coming into force of the Haryana Staff Selection Commission Act, 2004) for the purpose of streamlining public employment, in the opinion of this Court, is failing to discharge its duty.”

10. After the report had been furnished by the aforesaid nominated Advocates, the respondent-Commission was also given a chance and an opportunity to go through the report and the record at the same time. On the basis of their own inspection of the record, an affidavit has been filed by the Haryana Staff Selection Commission in Court today. The undated affidavit, as furnished by the Secretary, Haryana Staff Selection Commission, Panchkula, notarised on 25.04.2023, along with the Annexures highlights the inspection done. One roll number being 9031003891, at serial No.2 would reflect that only the father's death certificate had been submitted at the time of scrutiny, which would be in consonance with the advertisement and that candidate has been selected with grant of 5 additional marks under socio economic criteria being orphan. Reference may be made to candidate at serial No.11 having roll No.9031059516, whose mother is alive and the death certificate of the father stands submitted and the candidate has been selected in the similar manner. There are several other candidates reflected in

the said Annexures, who have been selected, whose mother is alive, on being granted 5 marks for their being orphan.

11. The aforesaid affidavit also contains the error committed on the part of the respondent-Commission in clear terms, as can be noticed from para 6 thereof, which reads as under:-

*“That the Commission has already submitted a list of all 173 candidates (out of 1005 candidates), who claimed 5 marks on account of being Orphan and were **inadvertently** awarded by the Commission on the wrong reporting by the scrutiny committee despite the fact that there were various deficiencies in their respective claims in the contravention of rules. Further, a list of 49 candidates was also submitted along-with affidavit dated 14.03.2023 who did not claim the marks under the Orphan Category. However, during scrutiny they were considered for the grant of marks of Socio-Economic Criteria. Thus, as such the marks for being an orphan under the Socio economic criteria have unwittingly been granted due to misapprehension to even fatherless candidates. However, these should have been allowed only to the orphan candidates i.e. whose both parents have expired subject to further fulfillment of other conditions i.e. whether the applicant is a 1st or 2nd ward of the deceased whose father died before completion of 42 years of age or whether the applicant is a 1st or 2nd ward and his/her father had died before his/her completing 15 years of age etc. or to the candidates who had not claimed these marks in the application form but had produced the documents at the time of scrutiny.....”*

12. As admitted by learned counsel for the respondents, based on the information as supplied to them and inspection as done, there has been an error in

giving marks to the candidates who are not entitled to be given marks beyond the criteria as mentioned in the advertisement.

13. The question before this Court is whether the petitioners have a right to claim appointment for the posts they applied by giving them additional 5 marks under the orphan category as have been given to certain other similarly situated candidates.

14. In view of the very fair submission made by the respondents that there is variance in grant of marks in orphan category by different Scrutiny Committee, this Court is of the opinion that the merit list ought to be set aside and has no hesitation in doing so in respect of the candidates, who had applied under advertisement No.3/2018 dated 16.04.2018 for all the five categories and laid their claim for 5 additional marks under socio economic criteria being orphan. So instead of setting aside the entire selection process and directing that the examination be conducted afresh, especially when there is no allegation of any corrupt motive or malpractice, this Court is of the opinion that *only* the process of re-examining and scrutinizing the documents as submitted by the candidates claiming the benefit of additional 5 marks on account of being an orphan be conducted afresh. The mistake was committed at the stage of scrutiny of documents, so the exercise of revising the merit list be re-started from that stage. The respondent-Commission is hereby directed to revise the result of all such candidates by strictly adhering to the criteria as specified in the advertisement regarding allocation of 5 additional marks to candidates claiming under the orphan category. Since the term 'orphan' has not been defined in the advertisement and there are various interpretations given to the said word, as would be evident from definitions in Merriam Webster, Macmillan, Oxford and Cambridge dictionaries,

it would be in fitness of things to direct the same interpretation of the word orphan to this selection, as was applied to group-D posts vide advertisement No.4/2018. Therefore, the respondent-Commission shall undertake the process afresh for scrutiny of all the documents of all those candidates, who applied for either of the five posts under the advertisement in question, claiming 5 additional marks under the orphan category. All those candidates claiming 5 additional marks under the socio economic criteria being orphan would be associated and only those documents which were issued prior to the last date of submission of application forms i.e. 25.10.2018, will be taken into consideration to assess their eligibility.

15. In case, it is found that on re-casting of the merit list, certain selected candidates will have to make way for those who have a higher merit, at that juncture, the respondents-State may take a decision as to whether such candidates having lesser merit and have already been appointed and working as such for the past three years, ought to be relieved. In case, the writ petitioners figure in the revised merit list, their appointment shall relate back to the date when their batch-mates were appointed with continuity in service to them for the purpose of seniority but without any back wages or other incidental benefits.

16. Admittedly, the selected candidates have not contributed to the preparation of the erroneous merit list and in fact, no fault of fraud can be attributed to such selected candidates. It is the fault of the Commission that certain candidates were given marks, who were not entitled to the same and, therefore, they came to be appointed. The issue as to whether the candidates who had been appointed on the basis of erroneous result declared at the first instance without there being any allegation of fraud or misrepresentation on the part of the selected candidates, should be removed from service as they had secured marks less than

the last selected candidate in terms of the revised list, had been gone into by the Supreme Court on a number of occasions. In **Rajesh Kumar and others versus State of Bihar and others, 2013(3) S.C.T. 449**, the Supreme Court accepted the submission made on behalf of the selected candidates on the basis of alleged incorrect answer key that in case they do not fall within the select list prepared after re-evaluation of the answer sheets with the help of correct answer key, they should not be ousted. Relevant paragraphs of the judgment and the directions issued by the Supreme Court in the aforesaid judgment are extracted below:-

"17. That brings us to the submission by Mr. Rao that while reevaluation is a good option not only to do justice to those who may have suffered on account of an erroneous key being applied to the process but also to the writ petitioners-respondents 6 to 18 in the matter of allocating to them their rightful place in the merit list. Such evaluation need not necessarily result in the ouster of the appellants should they be found to fall below the "cut-off" mark in the merit list. Mr. Rao gave two reasons in support of that submission. Firstly, he contended that the appellants are not responsible for the error committed by the parties in the matter of evaluation of the answer scripts. The position may have been different if the appellants were guilty of any fraud, misrepresentation or malpractice that would have deprived them of any sympathy from the court or justified their ouster. Secondly, he contended that the appellants have served the State efficiently and without any complaint for nearly seven years now and most of them, if not all, may have become overage for fresh recruitment within the State or outside the State. They have also lost the opportunity to appear in the subsequent examination held in the year 2007. Their ouster from service after their employment on the basis of a properly conducted competitive

Neutral Citation No.- 2023:PHHC:070661

examination not itself affected by any malpractice or other extraneous consideration or misrepresentation will cause hardship to them and ruin their careers and lives. The experience gained by these appellants over the years would also, according to Mr. Rao, go waste as the State will not have the advantage of using valuable human resource which was found useful in the service of the people of the State of Bihar for a long time. Mr. Rao, therefore, prayed for a suitable direction that while re-evaluation can determine the inter se position of the writ petitioners and the appellants in these appeals, the result of such re-evaluation may not lead to their ouster from service, if they fell below the cutoff line.

18. There is considerable merit in the submission of Mr. Rao. It goes without saying that the appellants were innocent parties who have not, in any manner, contributed to the preparation of the erroneous key or the distorted result. There is no mention of any fraud or malpractice against the appellants who have served the State for nearly seven years now. In the circumstances, while inter se merit position may be relevant for the appellants, the ouster of the latter need not be an inevitable and inexorable consequence of such a re-evaluation. The re-evaluation process may additionally benefit those who have lost the hope of an appointment on the basis of a wrong key applied for evaluating the answer scripts. Such of those candidates as may be ultimately found to be entitled to issue of appointment letters on the basis of their merit shall benefit by such re-evaluation and shall pick up their appointments on that basis according to their inter se position on the merit list.

17. The respondent-Commission shall conclude the exercise of scrutiny of documents within a period of four months from today. Let adequate measures

Neutral Citation No.- 2023:PHHC:070661

be taken to inform the candidates concerned well in advance so that there is no opportunity of raising a grievance by any of the selected candidates. Public notice will be issued and the candidates would also be given due information on their last known address as filled in the application forms. After re-casting of the revised merit list, the State Government to consider retaining the services of such candidates already serving, though lower in merit, by adjusting them against any vacancies or future vacancies that are to arise. In case they are to be relieved to make way for candidates with higher merit, they will be issued appropriate show cause notice within a period of six weeks thereafter. Due intimation be sent at their last known address as mentioned. The show cause notice as proposed to be served upon the candidates having lesser merit, would also mention that the reply, if any, would be filed within a period of two weeks, while further mentioning that no opportunity would be given to them to prolong the matter.

18. All the writ petitions are disposed of in the aforesaid terms.
19. The entire original record, deposited with the Director, Anti Corruption Bureau, Haryana, is ordered to be returned back to the Haryana Staff Selection Commission, forthwith.

16.05.2023
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No