

CWP-9977-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(118)

CWP-9977-2023  
Date of decision:- 17.05.2023

Parminder Kaur

...Petitioner

Versus

Haryana Public Service Commission and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Angrej Singh, Advocate and  
Mr. Brijesh, Advocate for the petitioner.

Mr. Kanwal Goyal, Advocate and  
Mr. Govind Tanwar, Advocate for respondent No.1-HPSC.

Mr. Rohit Bansal, Senior DAG, Punjab along with  
Mr. Kulwinder Kaur, Assistant Director, S.S.S. Board, Punjab  
for respondents No.2 and 4.

Mr. Pankaj Middha, Addl. A.G., Haryana  
for State-respondent No.3.

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**SUVIR SEHGAL, J. (Oral)**

1. Petitioner has approached this Court for issuance of a writ of mandamus directing respondent No.1 to postpone the date of Preliminary Examination for Haryana Civil Services (Executive Branch) and other Allied Services-2022 (for short “the Haryana Examination”), which is scheduled to be held on 21.05.2023. An alternate prayer has been made for directing respondent No.2 to postpone the date of the examination for the post of Excise and Taxation Inspector (for short “the Punjab Examination”), which is also to be held on the same day.

2. By referring to the applications, Annexures P-4 and P-10, counsel for the petitioner submits that the petitioner has applied both for the post of Excise and Taxation Inspector advertised by the Punjab Subordinate Services Selection Board (S.S.S. Board)-respondent No.2 and for appearing in the Haryana Examination scheduled to be held by the Haryana Public Service Commission (HPSC)-respondent No.1. Counsel submits that as both the examinations are fixed for 21.05.2023 and as there is a clash in the dates, either of the two examinations may be directed to be deferred. He further submits that the Punjab Examination, which was earlier scheduled to be held on 22.01.2023, was postponed by notice dated 09.01.2023 on technical grounds. He submits that this deferment of the examination was on account of the fact that the examination for recruitment to 159 posts of Civil Judges (Junior Division-cum-Judicial Magistrates) in the State of Punjab was fixed by the Punjab Public Service Commission on same day. He has placed reliance on order dated 09.05.2022, Annexure P-8, passed by the Supreme Court in *Writ Petition (Civil) No.310/2022* titled as *Nisha Kumari and others Versus Haryana Public Service Commission and another*.

3. Mr. Kanwar Goyal, Advocate representing respondent No.1 submits that Advertisement No.11/2023 was published on 09.02.2023, Annexure P-9, which was followed by a corrigendum, inviting online applications for 95 posts of HCS (EB) and other Allied Services. By announcement dated 24.03.2023, Annexure P-1, HPSC-respondent No.1 announced that the Haryana Examination will be held on 21.05.2023, which

is prior to the tentative schedule, Annexure P-2, released by the S.S.S. Board-respondent No.2. He asserts that a total of 93,600 candidates have applied for appearing in the preliminary examination to be held in 341 centres across the State and only three candidates, including the present petitioner, have submitted representations for the postponement on account of clash of dates with the Punjab Examination, but only the petitioner has approached this Court. He has filed a short affidavit dated 17.05.2023 to this effect, which is taken on record. He urges that even though the announcement for examination by the S.S.S. Board-respondent No.2 was made on 10.04.2023, the petitioner claims to have sent a representation by registered post on 15.04.2023 and has remained silent thereafter till the filing of the instant petition on 04.05.2023. He submits that the Admit Cards for the examination are being downloaded by the aspiring candidates and in case a postponement of the examination is ordered, it will lead to a chaos. He has placed reliance upon a Division Bench judgment of this Court in **CWP-8205-2022** titled as **Raghav Gumber and others Versus Haryana Public Service Commission and another**, decided 22.04.2022, to contend that it will not only result in an unnecessary delay in completion of the recruitment, but tedious process of re-fixing and making arrangements will have to be undergone again.

4. Mr. Rohit Bansal, Senior DAG, Punjab, who is representing S.S.S. Board-respondent No.2 submits that online applications were called for 107 posts of Excise and Taxation Inspector by Advertisement No.

08/2022. He has produced a *Xerox* copy of the representation, Annexure P-6, sent by the petitioner to argue that the representation is vague in as much as the petitioner had neither specified that she was an applicant for the advertised post nor had she mentioned her registration number. Still further, he submits that as the representation submitted by the petitioner was not signed, no action was taken on that. Upon instructions received from Mr. Kulwinder Kaur, Assistant Director, S.S.S. Board, Punjab-respondent No.2, he submits that a total of 68,043 candidates have applied for appearing for the Punjab Examination, to be held in 110 centres in Chandigarh and SAS Nagar, Mohali. As per his information, 1981 candidates belong to other States, the process for conducting the examination is at an advanced stage and admit cards have been issued to the candidates. Still further, he submits that although 60 applications have been received for the postponement of the examination, but another 31 applications have been received requesting the Board not to defer the examination. It is his argument that as the examination for the posts have already been delayed due to an earlier postponement, another postponement at this stage would further hamper the recruitment process and create uncertainty in the mind of the applicants.

5. I have given my anxious consideration to the submissions made by counsel for the parties and examined the material placed on the record.

6. It is not in dispute that the petitioner is an applicant for the post advertised by the HPSC-respondent No.1 and the S.S.S. Board-respondent No.2 and the examination for both the posts are to be held on the same day.

After the announcement of the examination dates by respondent No.1, respondent No.2 issued the tentative schedule for holding of examination almost two weeks later. After the tentative schedule was uploaded by respondent No.2, petitioner submitted representations, Annexures P-5 and P-6, to both respondents No.1 and 2 requesting them to re-schedule the date of the examination. Despite the lapse of almost three weeks, even though, she did not receive any response, petitioner did not take any step to approach this Court. This petition has been filed by her when the examination is around the corner. No reason, whatsoever, has been given by the petitioner in the writ petition for the delay. The argument of the counsel that the petitioner was seeking legal advice, is of no avail.

7. Writ petition came up for hearing for the first time before this Court on 09.05.2023, when the petitioner was confronted with the application, Annexure P-3, which did not pertain to the examination being conducted by respondent No.1. Thereafter, she filed a misc. application, which has been allowed, vide order dated 16.05.2023, bringing on record, Annexure P-10, to show that she was an applicant for the Haryana Examination. This clearly exhibits that not only the petitioner has been slack, but even casual in approaching this Court.

8. More than 93,000 candidates are to appear in the examination being conducted by HPSC-respondent No.1, and there are more than 68,000 applicants for the examination to be conducted by S.S.S. Board-respondent No.2. Except for the petitioner, no other candidate has approached this Court

requesting for deferring of either of the examinations on account of clash of dates. Although, counsel for respondent No.2, upon instructions, has submitted that 60 applications have been received for the postponement of the examination, but the total number of aggrieved applicants is minuscule compared to the total number of desirous candidates, i.e., less than 0.1% of the total applicants.

9. It will be worthwhile to notice and reproduce the observations of the Apex Court in ***Writ Petition (Civil) No. 521-2022*** titled as ***Amit Kumar Kohli Versus Hon'ble High Court of Rajasthan and others***, decided on 19.07.2022, which are applicable to the facts in hands:-

*“Application for intervention is dismissed.*

*Filling up of judicial vacancies is of prime urgency.*

*There appears to be some clashes of examination and earlier also some deferments took place and that too at the behest of a couple of students.*

*We cannot countenance a situation where exams are continuously deferred as they are different examinations and the petitioner(s) will have to take a choice where he/they want(s) to appear as otherwise it causes grave prejudice to other candidates and to the examination process.*

*The Writ Petitions are accordingly dismissed.*

*Pending applications stand disposed of.”*

10. A Division Bench of this Court in **Raghav Gumber's** case (supra) has held as under:-

*“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 reschedule, 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.”*

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*“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.”*

11. The postponement of either of the examinations will not be in the interest of anyone. On the one hand, the administrative work suffers due to the vacancies of the various government posts and on the other hand, the job aspirants, who may be travelling from different places, are left in the lurch due to uncertainty of the dates for holding the examination. Conducting of an examination for thousands of candidates is a herculean task and involves micro and macro planning spread over a period of months. A single person cannot hold the entire recruitment process at ransom. The Court has to weigh the interest of a solitary petitioner with that of teeming number of aspirants. Therefore, this Court is not inclined to accept the prayer made in the petition and issue a direction to any of the respondents. This Court is of the view that there is no equity in favour of the petitioner.

12. Finding no merit in the writ petition, it is hereby dismissed.

(SUVIR SEHGAL)  
JUDGE

17.05.2023  
Kamal

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|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |