

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

**LPA-772-2023 (O&M)
Date of decision:21.09.2023**

Chamkaur Singh

... Appellant

Vs.

Subordinate Services Selection Board, Punjab & others ... Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL.
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Mr. Himanshu Joshi, Advocate for the appellant.

Mr. R.S. Pandher, Sr. DAG, Punjab.

...

SUKHVINDER KAUR, J.

1. The present intra Court appeal has been preferred against the order dated 02.03.2023 passed by a learned Single Judge of this Court, whereby Civil Writ Petition No.17543 of 2016 filed by the appellant has been dismissed.

2. Facts in brief which are required to be noticed are that an advertisement was issued in the year 1996 for the post of Clerk by the Subordinate Services Selection Board, Punjab (for short 'the Board'). The screening test was taken on 01.01.1998 and the appellant had duly appeared and cleared such test. Thereafter, the appellant was called for the Punjabi Typing Test from 02.09.1998 to 03.11.1998. After declaration of the result, name of the appellant was not shown in the list of successful candidates which was published in the newspaper in the year 2000. At that point of time, the appellant could not get the relevant information regarding his result. After introducing the Right to Information Act, 2005, he filed an application dated 13.11.2014 followed by a reminder dated 12.12.2014

before the Board with regard to information of the result of the said post. He sought a copy of the screening test. Since no information was received, the appellant filed an appeal on 13.01.2015 before the State Information Commission, Punjab (for short 'the Commission'). The Commission through its reply had informed the appellant that the appeal does not lie before it. Thereafter the appellant approached the Chairman-cum-First Appellate Authority, Subordinate Services Selection Board, Punjab through an appeal dated 06.02.2015 to which no reply or information had been provided by the Board.

3. The appellant then filed a complaint dated 09.03.2015 under Section 18 of the Act before the State Information Commission. That complaint was treated as an appeal by the Commission itself and in response to which, an affidavit was filed on behalf of the Board by submitting that the information sought by the appellant has been destroyed by the Board in view of the resolution passed by the Board in its meeting dated 18.08.1998. In pursuance to the affidavit filed on behalf of the Board, the Commission disposed of the appellant's appeal on 05.11.2015 holding that no cause of action is left in the case of the appellant. Therefore the appellant moved an application dated 07.10.2015 before the Commission but such application was also dismissed by the Commission on 05.05.2016 by observing that as per Policy, answer sheets of the candidates were destroyed after a lapse of six months except in cases of pending litigation.

4. Feeling aggrieved of the order of the Commission, the appellant filed CWP-17543-2016 before this Court. The learned Single Judge disposed of such writ petition, finding no legal infirmity in the impugned order

warranting interference and holding that the application was filed after more than 15 years of the conducting of the test and the record had already been destroyed. Hence, the present intra Court appeal.

5. Learned counsel for the appellant has contended that there was no specific denial to the averments of the appellant by the Board in its reply. He has submitted that the judgement passed by the learned Single Judge is liable to be set aside on the ground that the affidavit shows that such averment was never made by the Board that the information which was sought by the appellant was destroyed. The list of burnt record does not pertain to the record of the appellant. Therefore, the Commission has passed the order only on the basis of presumption. He has further contended that the Commission has misread the affidavit of the Board and passed wrong orders. Therefore, he prays that the order passed by the authorities are liable to be set aside.

6. We have heard learned counsel for the parties and have perused the record thoroughly.

7. The appellant appeared in a test on 01.01.1998 for appointment to the post of Clerk before the Board. Being successful in the screening test, he was called for Punjabi Typing Test which was conducted from 02.09.1998 to 03.11.1998. However, his name was not shown in the list of successful candidates published in the newspaper in the year 2000. In the year 2005, the Right to Information Act, 2005 was introduced. Thereafter, he applied for the information regarding result of the said test vide an application dated 13.11.2014 followed by a reminder dated 12.12.2014 under the Act. Since, no response was received, the appellant filed first appeal before State Information Commission, Punjab on 13.01.2015 and then filed appeal before Chairmain-cum-First Appellate Authority, Subordinate Services Selection Board, Punjab

vide appeal dated 06.02.2015. When no information was provided by Board, appellant preferred complaint under Section 18 of the Right to Information Act, before State Information Commission, Punjab vide complaint dated 09.03.2015. The said complaint was treated as appeal by the Commission, which was disposed of vide order dated 05.11.2015 holding that record sought by the appellant had been destroyed by the Board in view of Resolution dated 18.08.1998. Thereafter, the appellant again gave application dated 07.10.2015 that the said record had not been burnt. But, the Commission dismissed the said application of the appellant on 05.05.2016 holding that the answer sheets of the candidates are destroyed after the lapse of six months as per the Policy in case they do not form part of the pending litigation.

8. The learned Single Judge has rightly observed that the application seeking information was filed belatedly after a period of more than 15 years of conducting of the test and by then the record which had been sought had already been destroyed. So when the answer sheet of the appellant relating to typing test which was conducted in the year 1998 was not available with the respondents, then it was not feasible for the respondents to provide the same to the appellant.

9. We do not find any illegality in the impugned order passed by the learned Single Judge warranting interference by us.

10. Accordingly, the instant intra Court appeal is dismissed.

(DEEPAK SIBAL)
JUDGE

21.09.2023
harjeet

(SUKHVINDER KAUR)
JUDGE

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No