

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

119+124

LPA-1054-2023 (O&M)

Date of Decision : 10.08.2023

Varun Girdhar and others

..... Appellants

Versus

State of Haryana and others

..... Respondents

LPA-1088-2023 (O&M)

Parvinder Kaur and others

..... Appellants

Versus

State of Haryana and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present : Mr.Tarun Sharma, Advocate and
Mr. Varun Girdhar, Advocate
for the appellants in LPA-1054-2023.

Mr.R.S.Dhull, Advocate
for the appellants in LPA-1088-2023.

Mr. Baldev Raj Mahajan, Sr. Advocate with
Ms. Shruti Goyal, Advocate
for the respondent-State of Haryana.

JAGMOHAN BANSAL, J. (Oral)

1. By this common order, LPA Nos. 1054 and 1088 of 2023 are
disposed of since facts and issues involved are analogous. For the sake of

brevity and convenience, the facts are borrowed from LPA No. 1054 of 2023.

2. The appellants through instant intra court appeal under Clause X of Letters Patent are seeking setting aside of order dated 25.07.2023 whereby learned Single Judge has dismissed writ petition of the appellants seeking setting aside of order dated 13.07.2023 passed by respondent No.2- Haryana Public Service Commission (for short 'Commission') and appellants have also sought quashing of final result dated 14.07.2023 (Annexure P-16).

3. Brief facts which are necessary for the adjudication of the present appeal are that the appellants pursuant to Advertisement No.11 of 2023 published on 09.02.2023 inviting applications for recruitment of 95 posts of Haryana Civil Services (Executive Branch) and other Allied Services-2022 applied. Preliminary examination came to be held on 21.05.2023. In the question paper No. 2 i.e. CSAT, the appellants found that 38 questions are verbatim replica of questions posed in HCS 2022 exam. CWP No.12341 of 2023 titled as “Ankit Kumar vs. State of Haryana and others” came to be filed before this Court wherein petitioners sought quashing of Paper-2. The writ petition came to be disposed of vide order dated 01.06.2023 with a direction to decide representation of the petitioners within 10 days. The Commission in compliance of order dated 01.06.2023 of this Court, passed an order dated 08.06.2023 whereby rejected representation of the petitioners. The Commission came to a conclusion that there is no need to cancel exam though 40 questions have been repeated from exam held in 2022. The Commission declared result on 09.06.2023 and candidates preferred CWP No.13849 of 2023 titled as

“Narender Kumar and others vs. State of Haryana and another” seeking setting aside of order dated 08.06.2023 passed by respondent No.2 and result of preliminary examination. The writ petition came to be dismissed as infructuous because the Commission withdrew its order dated 08.06.2023. The Commission passed fresh order dated 13.07.2023 wherein it was concluded that result be declared after deleting repeated questions. The upshot of said order was that result of preliminary examination declared on 09.06.2023 came to be re-visited and fresh result was declared on 14.07.2023. The appellants preferred CWP No.15803 of 2023 seeking quashing of order dated 13.07.2023 on the ground that despite admitting repetition of 38 questions in the examination of 2023 vis-a-vis exam of 2022, the Commission has not cancelled the exam and proceeded with main exam. The matter came up for consideration before learned Single Judge of this Court, who vide impugned order dated 25.07.2023 has dismissed writ petition on the ground that the jurisdiction to evaluate a candidate is upon the Commission and unless and until action of the Commission in evaluation of a candidate is found to be wholly arbitrary or illegal or against any enactment or is causing prejudice to the candidate, the Court cannot interfere. Learned Single Judge further relying upon order dated 05.08.2022 passed by this Court in CWP No.19387 of 2019 titled as “Parveen Kumar and others vs. State of Haryana and another and order dated 11.10.2022 passed in CWP No. 3442 of 2020 titled as “Upesh Malik vs. State of Haryana and others” concluded that exam cannot be declared invalid on the ground that there is repetition of questions vis-a-vis exam held on earlier point of time.

4. Learned counsel for the appellants *inter alia* submits that

respondent was bound to cancel exam because there was repetition of 38 questions vis-a-vis exam held in 2022. The candidate is required to secure 33% marks in the paper in question and 38 questions were verbatim borrowed from 2022 exam, thus, possibility of clearance of exam by candidates who appeared in 2022 increased multi fold which caused prejudice to the candidates who appeared for the first time in 2023 exam.

5. We have heard the arguments of learned counsel for the appellants and perused the record.

6. The sole ground of the appellants to assail impugned order is that there was repetition of 38 questions, thus, Commission was duty bound to cancel exam.

7. On being asked, learned counsel for the appellants have failed to point out prejudice caused to appellants except to make bald statement that possibility of success of candidates who appeared in 2022 exam had increased. The explanation furnished by appellants is not plausible because appellants have failed to bring on record any material indicating number of candidates who appeared in 2022 as well as 2023 exam, number of candidates out of them succeeded and number of questions which have been answered by those candidates. In the absence of any material on record, it cannot be concluded that there was intention much less *malafide* of the Commission to favour candidates who appeared in 2022 exam as well as 2023 exam. In the absence of any evidence that there was *malafide* intention on the part of Commission to borrow questions from earlier exam, it cannot be concluded that action of Commission was unjustified and exam should be cancelled.

8. Learned Single Judge while passing impugned order has relied

upon order dated 05.08.2022 passed by this Court in Parveen Kumar's case (supra) and order dated 11.10.2022 passed in “Upesh Malik's case (supra). The appellants have failed to distinguish their case from the aforesaid judgments. This Court in aforesaid judgments has held that mere repetition of questions in a subsequent exam will not render the examination as illegal because no prejudice is caused to any candidate.

8. The upshot of above discussion is that case of the appellants is squarely covered by judgments of this Court in Parveen Kumar's case (supra) and Upesh Malik's case (supra) and appellants have failed to demonstrate either prejudice cause to them or *malafide* act on the part of respondent-Commission. Therefore, the present appeals deserve to be dismissed and accordingly dismissed.

(ARUN PALLI)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

10.08.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>