

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-1088-2022 (O&M)

Date of Decision: 16.03.2023

Arun Kumar

... Appellant

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

**Present: Mr. Satyavir Singh Yadav, Advocate,
for the appellant.**

ARUN PALLI, J.

This is an intra court appeal, under Clause X of the Letters Patent, against an order and judgment dated 18.08.2022, vide which the writ petition preferred by the appellant was dismissed by the learned Single Judge.

Facts that are required to be noticed are limited.

The Director General, Treasuries and Accounts Department, Haryana, vide notice dated 26.06.2019 [P-1], invited applications for the State Subordinate Accounts Services (SAS)-Part II Examination, to be conducted by Haryana Institute of Public Administration (HIPA). Only those candidates, who had qualified SAS Part I, were eligible. For the appellant had qualified SAS Part I, he applied and appeared in SAS Part II Examination on 10.08.2019 and 12.08.2019 with Roll No. P1907015. As per Regulations dated 29.09.1987 [**R-1, page 90**], in order to qualify the exam, a candidate needs to obtain not less than 40 per cent marks in each subject and 45 per cent in the aggregate in all subjects (**page 92 point 8**). Vide notice

dated 05.09.2019 [P-2], provisional result, declaring the marks obtained in each of the five subjects, was published. Notice dated 05.09.2019 afforded one month's time to the candidates to apply for "re-checking" of their answer-sheets, only in cases where any answer was found to be left unmarked by the examiner or if there was any totalling mistake. The appellant scored 57 marks out of 150 in the subject-paper of 'Company Law and Allied Acts', and was thus falling 3 marks short of making the minimum 40 per cent cut. Aggrieved, the appellant requested for his answer-sheet in the subject through RTI and then applied for re-checking through representation dated 30.09.2019 [P-5]. Having received no response from the respondents, the appellant approached this Court vide a writ petition, referred to above, praying for the following substantive reliefs:-

- i) ***Issue a writ, order or direction, especially in the nature of certiorari/mandamus, thereby quashing the action of the respondents not abiding the proper criteria pertaining to the examination of the Haryana Subordinate Accounts Services (HSAS) Part-II Examination in the Acts, conducted by the respondents On 12.8.2019 and further quashing the action in not awarding the proper marks to the questions attempted by the petitioner, as the action of the respondents was discriminatory in awarding the marks and further for the issuance of a writ in the nature of mandamus, thereby giving directions to the respondents to award the proper marks to the answers attempted by the petitioner in the paper of Company Law and Allied Acts and to declare the petitioner qualified in SAS Part-II***

***Examination for appointment in the Department of
Finance of the Haryana Government.”***

And, in brief, the case set out by the appellant in the petition was that the respondents' did not abide by the proper criteria of the examination, as they did not pose questions from all subjects provided for in the syllabus of 'Company Law and Allied Acts'. It is further alleged, that appellant was not awarded proper marks for the answers that he gave, as he is certain that his answers were correct, for he had attempted them with assistance of Bare Acts.

In their written statement, respondents No.1 and 2 have submitted that a committee was constituted for re-checking/totalling of answer-sheets of SAS Part-II Exam-2019, which submitted its report on 13.11.2019 [R-3]. As per the report, the committee had received 13 answer-sheets in the subject of 'Company Law and Allied Acts', including that of the appellant, and it reported that there was no revision of marks qua appellant's answer-sheet as the marks were already awarded, there was no totalling mistake and no unchecked question was found. Thereafter, the final result was also declared on 07.01.2020 by respondent No. 2.

The learned Single Judge dismissed the writ petition, observing that the Court cannot superimpose its views on those of the expert committee.

Learned counsel for the appellant has merely reiterated the submissions that were advanced before the learned Single Judge and has further argued that the learned Single Judge has wrongly prescribed the Grievance Committee as 'Expert Committee'.

We have heard learned counsel for the appellant and perused the

records.

Ex facie, in context of the relief prayed for in the writ petition, the appellant has essentially asked for **re-evaluation** of his answer-sheet in the paper of ‘Company Law and Allied Acts’. The limited issue, thus, that arises for our consideration is: whether the appellant has a right to demand such re-evaluation? In common parlance, re-checking is confined to the examination of the answer sheet to find out, whether any question has remained unmarked and whether the marks awarded for questions have been properly compiled and totalled, whereas re-evaluation, *inter alia*, requires reassessment and re-evaluation of the answers and consequently, the marks awarded by the examiner. The notice dated 05.09.2019 [P-2], which reads as under, specifically provided for **re-checking** and not re-evaluation:

“Further all the candidates are hereby informed that if they want to check their answer sheets and want to apply for rechecking they may apply to HIPA, Gurugram within one month from the date of issue of this notice. Thereafter, no requests will be entertained. It is also made clear that rechecking will be allowed only in cases where any answer has been left unmarked by the examiner or if there is any totaling mistake and will be limited to correction to this extend only.”

Concededly, the appellant’s answer-sheet has been **re-checked** and it was found that no revision of marks was due. As far as **re-evaluation**, i.e. re-assessment of his answers, is concerned, the law is settled. The issue of re-evaluation of answer-sheets was extensively examined by the Supreme Court in ***Maharashtra State Board of Secondary and Higher Secondary Education and another v. Paritosh Bhupesh kurmarsheth, [1984 (4) SCC***

271, wherein the Court rejected the contention that in the absence of the

provision for re-evaluation, a direction to this effect can be issued by the Court. The Supreme Court further held that even the policy decision incorporated in the Rules/Regulations not providing for re-checking/verification/re-evaluation cannot be challenged unless there are grounds to show that the policy itself is in violation of some statutory provision. This view has been approved and reiterated by the Supreme Court in *Pramod Kumar Srivastava v. Chairman, Bihar Public Service Commission, Patna and others, [2004 (6) SCC 714]*, observing as under:

“7. ... Under the relevant rules of the Commission, there is no provision wherein a candidate may be entitled to ask for revaluation of his answer book. There is a provision for scrutiny only wherein the answer books are seen for the purpose of checking whether all the answers given by a candidate have been examined and whether there has been any mistake in the totalling of marks of each question and noting them correctly on the first cover page of the answer book. There is no dispute that after scrutiny no mistake was found in the marks awarded to the appellant in the General Science Paper. In the absence of any provision for revaluation of answer books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for revaluation of his marks....” (emphasis supplied)

Further, upon a comprehensive consideration of the law on the subject, the Supreme Court in *Ran Vijay Singh & Ors. v. State of U.P. & Ors. [2018 (2) SCC 357]*, has highlighted the principles governing the re-evaluation of answer-sheets in public examinations:-

“30.1. If a statute, Rule or Regulation governing an

examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it;

30.2. If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the Court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any "inferential process of reasoning or by a process of rationalisation" and only in rare or exceptional cases that a material error has been committed;

30.3. The Court should not at all re-evaluate or scrutinize the answer sheets of a candidate - it has no expertise in the matter and academic matters are best left to academics;

30.4. The Court should presume the correctness of the key answers and proceed on that assumption; and

30.5. In the event of a doubt, the benefit should go to the examination authority rather than to the candidate."

In the case at hand, evidently, neither the notice dated 05.09.2019 nor the Regulations provided for re-evaluation of the answer-sheets. Therefore, in absence of a provision for re-evaluation and in light of the law laid by the Supreme Court, issuance of any writ of mandamus of this nature would practically amount to issuing directions for doing something which is not provided for by law [Dr. B.R. Ambedkar University, Agra v. Devarsh Nath Gupta &Ors., Civil Appeal No. 1141 of 2023 decided on 14.02.2023]. Further, upon being asked, learned counsel for the appellant failed to demonstrate very clearly, without any "inferential process of reasoning or by a process of rationalisation" that a material error has been

committed by the examiner which necessitates re-evaluation.

In the wake of the position sketched out above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

16.03.2023
AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: YES/NO