

2023:PHHC:163835-DB

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

CWP-23610-2023**Date of Decision: December 19, 2023****ROHTASH JANGAM**

..... Petitioner

Versus**PUNJAB AND HARYANA HIGH COURT AND OTHERS.**

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr. K.S. Banyana, Advocate for the petitioner.

Mr. Gaurav Chopra, Senior Advocate with
Mr. Aditya Jain, Advocate and
Mr. Rahul Vohra, Advocate for respondents No. 1 to 3.

LISA GILL, J.

1. Prayer in this writ petition is for setting aside result of Haryana Superior Judicial Service Examination 2019, declared on 21.11.2022, with a further prayer for directing respondents to reevaluate answer sheet of Civil Law-I paper attempted by petitioner from an Independent Expert Committee and to revise petitioner's result after revaluation of said paper.

2. It is submitted that pursuant to issuance of advertisement dated 07.08.2019 for direct recruitment to Haryana Superior Judicial Service from amongst eligible advocates, petitioner being eligible, applied under BC-A category. Petitioner took common written examination.

3. CWP-1769-2020 (Harkirat Singh Ghuman vs. Punjab and Haryana High Court was filed challenging the selection process. Said writ petition was dismissed by this High Court on 23.01.2020. SLP (C) No. 5079 of 2020 was filed by petitioner therein, challenging the said judgment. Leave to appeal was granted and ultimately SLP (C) No. 5079 of 2020 was converted to Civil Appeal No. 5874 of 2022. Hon’ble the Supreme Court while finding merit in one of the four objections raised, i.e. in respect to allegations regarding Paper-V (Criminal Law) allowed the appeal on 29.08.2022 and directed respondents to evaluate marks obtained of questions No. 1, 2, 3 and 5 of Paper-V (Criminal Law) out of total 160 marks and after undertaking the process, fresh result of written examination was directed to be declared with reference to Punjab/Haryana Superior Judicial Service Examination, 2019. It was directed that those candidates who qualified and fall in the zone of three times the number of vacancies, may be called for viva-voce and result of selection process thereafter be finally declared in accordance with the scheme of applicable Rules.

4. In compliance of decision dated 29.08.2022, result of examination was thereafter declared on 21.11.2022 but petitioner was not declared qualified as he failed to secure minimum 40% marks in paper of Civil Law-I and failed to qualify condition to secure 40% in each paper, for being called for viva-voce in terms of clause 6 (iv) of the advertisement. Marks obtained by the petitioner are as under:

Civil Law-I (out of 200)	Civil Law-II (out of 200)	GK (out of 50)	Criminal Law (out of 160)	Hindi/English (out of 100)	Total
74*	102.5	27	70	47	246.5

5. Learned counsel for petitioner argues that petitioner has attempted his Civil Law-I paper in a proper fashion and all answers are correct but despite the same very less marks have been awarded to the petitioner in an absolutely illegal and arbitrary manner. Thus, in this situation, Civil Law-I paper attempted by petitioner should be revaluated by an Independent Expert Committee as petitioner is confident that he would secure minimum required 40% marks.

6. Learned counsel for petitioner relies upon judgment of Hon'ble the Supreme Court in **Pranav Verma and others versus Registrar General of the High Court of Punjab and Haryana at Chandigarh and another 2020 (15) SCC 377** as well as **Harkirat Singh Ghuman's** case (supra) to submit that revaluation should be carried out even though there is no specific provision for carrying out the same in the applicable Rules. It is, thus, prayed that this writ petition should be allowed.

7. Learned counsel for respondent has opposed this writ petition while submitting that petitioner has no right to approach this Court for setting aside the result which was declared on 21.11.2022. It is submitted that selection process was carried out in accordance with law and result was declared on 21.11.2022 after due compliance of directions of Hon'ble the Supreme Court in **Harkirat Singh Ghuman's** case (supra). Learned counsel for respondents also argues that in the absence of any Rule or provision for revaluation of answer sheets, this writ petition is dismissed. Moreover, petitioner having participated in examination process for selection to Haryana Superior Judicial Service Examination, 2019 and being unsuccessful, is not entitled to prefer this writ petition in October, 2023 to

challenge the result declared on 21.11.2022. Dismissal of writ petition is sought.

8. We have heard learned counsel and have gone through the file.

9. It is an admitted fact that there is no provision for revaluation of answer sheets in the applicable Rules and neither is there any such clause in advertisement dated 07.08.2019. It is relevant to note that Hon'ble the Supreme Court in **HP Public Service Commission versus Mukesh Thakur 2010 (6) SCC 759** has held that in absence of any provision under the Statute or statutory Rules or Regulations, Courts should not generally direct revaluation.

10. Reliance by learned counsel for petitioner on judgment of Hon'ble the Supreme Court in **Pranav Verma's** case (supra) is clearly misplaced because Hon'ble the Supreme Court in said judgment has admittedly held to the contrary. In **Pranav Verma's** case (supra), in respect to prayer for revaluation in the absence of a specific provision, it has been held as under:-

“24. The alternative prayer of the petitioners for re-evaluation by an Independent Expert Committee is not worth acceptance. Firstly, for the reason that these 107 posts are already lying vacant for a considerable long period and the re-evaluation would further delay it. Secondly, Justice Sikri has thoroughly examined the fact situation before recommending the award of grace marks. Thirdly, there is no provision for re-evaluation in the Recruitment Rules and any such direction would run counter to the mandate of this Court in **H.P. Public Service Commission v. Mukesh Thakur, 2010(3) SCT 121: (2010) 6 SCC 759**, laying down that in the absence of any provision under the statute or statutory rules/regulations, the Courts should not generally direct re-evaluation.

25. The above-cited view has been reiterated by this Court in **Pramod Kumar Srivastava v. Bihar Public Service Commission, 2004 (3) S.C.T. 831 : (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 added]”

26. The Petitioners have relied on the decision in **Centre for Public Interest Litigation vs Registrar-General High Court of Delhi, (2017) 11 SCC 456** to substantiate their plea for revaluation of answer scripts by an Independent Expert Committee. However, in that case too it was held “if the suitable candidates are not found, the employer is not obliged to fill up the posts.” The directions for revaluation were given only as a special case.”

11. Similarly, judgment of Hon’ble the Supreme Court in **Harkirat Singh Ghuman’s** case (supra) is of no avail to petitioner. Said Civil Appeal was allowed on an absolutely different aspect as is evident from a perusal thereof. There is nothing on record to substantiate argument raised by learned counsel for petitioner that notwithstanding absence of specific rules providing for revaluation, interference should be caused by this Court as improper marking of petitioner’s paper of answer sheet of Civil Law-I is apparent on the face of it or that subjective discretion of award of marks has

taken place. At this stage, we take note of submission on behalf of respondents that answer sheets of Civil Law-I paper of all candidates were evaluated by five examiners with one question being allocated to one examiner and that particular question being evaluated by same examiner across the board i.e. the same examiner evaluated the same question of all candidates.

12. In the given factual matrix, we do not find any ground whatsoever to interfere in this writ petition.

13. Writ petition is, accordingly, dismissed being devoid of any merit.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

December 19, 2023
Rts

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