

CWP-27144-2023
CWP-27465-2023

2023:PHHC:159878
2023:PHHC:159880

-1-

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

113

**CWP-27144-2023
Date of Decision: 13.12.2023**

Suman Mor

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

And

115

CWP-27465-2023

Punita

...Petitioner(s)

Versus

Haryana Public Service Commission and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. R.K. Malik, Senior Advocate with Mr. Samrat Malik,
Advocate for the petitioner in CWP-27465-2023

Mr. Varunveer Chauhan, Advocate for the petitioner in
CWP-27144-2023

Ms. Harpriya Khandela, Advocate and Mr. Govind Tanwar,
Advocate for respondent no.3 in CWP-27144-2023
and for respondent no.1 in CWP-27465-2023

TRIBHUVAN DAHIYA, J.

These petitions are being decided together since common
question of law on similar facts arise herein. To decide the issue, facts are
being taken from CWP No.27465 of 2023.

2. This petition has been filed, *inter alia*, seeking a writ of *mandamus* directing the respondents to re-check/re-evaluate the petitioner's Optical Mark Recognition sheet (for short 'OMR sheet') as per question Booklet Set-A (Series 003273) of screening test for selection to the post of Post Graduate Teacher/PGT (Commerce) pursuant to advertisement no.25 of 2023, and allow her to appear for the next stage of selection, i.e., Subject Knowledge Test.

3. Facts in brief are, the petitioner applied for the post of PGT (Commerce) advertised by the respondent-Commission, and was issued admit card for appearing in the screening test to be held on 09.09.2023.

3.1. She appeared for the test and was given Test Booklet Series-A (Question Booklet Number 003273) in the examination centre. While filling-up the details of question Booklet in the OMR sheet in column no.4, she inadvertently darkened the circle against Booklet Series-C, though mentioned numeric number of Booklet Series-A therein.

3.2. The Commission declared screening test result on 06.10.2023, whereby thirty-nine candidates of BC-B category to which the petitioner belongs, were called for appearing in the Subject Knowledge Test. The petitioner secured 18.88 marks, and was not shortlisted for the Test.

3.3 She made a representation to the Commission on 11.10.2023, mentioning that due to inadvertance, she filled Test Booklet Series-C, instead of 'A' in the OMR sheet and, therefore, her OMR sheet should be re-checked as per Test Booklet Series-A according to which she has answered the

questions. The representation remained unanswered, and the petitioner approached this Court by filing the instant petition.

4. Learned senior counsel for the petitioner contends that it was a *bona fide* mistake on the part of the petitioner that correct Test Booklet Series Code could not be mentioned by her in the OMR sheet, though its number was correctly mentioned. And as per her own evaluation, based on the answer-key released, she would have scored 58 marks in the screening test; whereas, marks of the last shortlisted candidate in BC-B category are 50.26. In these circumstances, the petitioner's OMR sheet should be re-evaluated, and she should be allowed to participate in the process of selection on the basis of result of screening test. He has relied upon a judgment of the Allahabad High Court in *Manoj Kumar and 99 others v. State of U.P. and another*, 2020 (8) ILR (Allahabad) 74, to support the contentions.

5. *Per contra*, learned counsel for the Commission contends that the OMR sheet has been evaluated through computer scanners without any human intervention, as per the prescribed procedure. There is no scope for any manual intervention in it, which will disturb entire secrecy of the test. Besides, clear instructions were issued to all the examinees including the petitioner that any omission or discrepancy in darkening the roll number, test booklet series code etc., will render the OMR sheet liable for rejection. Therefore, the petitioner's OMR sheet cannot be re-evaluated. In that regard she has placed reliance upon a Supreme Court decision in Civil Appeal No.7158 of 2019 titled *J&K Board of Professional Entrance Examination & Ors. V. Pankaj Sharma & Anr* and a Division Bench judgment of the Rajasthan High Court in *Union of India and ors. v. Jagdish Chandra*, 2022 (3) SLR 237.

6. Heard.

7. Concededly, the petitioner did not darken the correct circle relating to question Booklet Series-A in the OMR sheet, instead, the circle against Booklet Series-C was darkened. Accordingly, the sheet was evaluated on the basis of the answers key of question Booklet Series-C. After declaration of screening test result, she submitted representation for re-checking of the same on the basis of question Booklet Series-A, based upon which she answered the questions. It is not in dispute that OMR sheets of all the candidates have to be electronically evaluated, without any human intervention. Further, it has not been pointed out that there is any provision for re-evaluation/re-checking of the sheet on account of inadvertent mistake(s) in giving particulars regarding roll number, question booklet series etc. or for any other cause. Besides, clear instructions were issued to all the examinees, including the petitioner, to darken roll number and test booklet series code carefully at appropriate place, as any omission or discrepancy in it will render the OMR sheet liable for rejection.

8. The relevant instructions, given to the candidates, as printed on the Test Booklet Series-A, are as under:

2. Please note that it is the candidate's responsibility to encode and darken the Roll Number, Test Booklet Series Code A, B, C or D and Question Booklet Number carefully and without any omission or discrepancy at the appropriate places in the OMR Answer Sheet. Any omission/discrepancy will render the OMR Answer Sheet liable for rejection.

3. You have to enter your Roll Number on the Test Booklet in the Box provided below. *DO NOT* write *anything else* on the Test Booklet.

8. Before you proceed to mark in the OMR Answer Sheet the response to various items in the Test Booklet, you have to fill in some particulars in the OMR Answer Sheet as per instructions mentioned on the OMR Answer Sheet.

Besides, OMR sheet itself had the following instructions printed on it:

Any omission or discrepancy in darkening the Roll No., Question booklet series and Question Booklet No. will render the OMR Answer Sheet liable for rejection.

9. Despite having been duly instructed, the petitioner failed to correctly darken the circle concerning the question Booklet Series Code in the OMR sheet, which was evaluated electronically in due course. In the absence of any provision for re-evaluation/re-checking, it cannot be claimed as a matter of right. Besides, there is no provision for manual intervention to correct the OMR sheet in any manner, once it has been handed-over to the invigilator/authorities by the examinee after the test, nor is there any provision for correction of inadvertent human error after the test. It is only to ensure sanctity and credibility of the examination process, that the procedure to electronically evaluate the OMR sheets has been adopted which is required to be rigorously followed, without a breach.

10. It is apt to make a reference to the judgment rendered in *Jagdish Chandra* case (*supra*), wherein after considering *Pankaj Sharma* case (*supra*), it was held that correction of such a mistake will compromise secrecy of the OMR sheet as well as the evaluation process. Besides, permission to correct

such mistakes will lead to chaos in the examination process. Relevant paragraphs of the judgment read as under:

22. The plea raised that the mistake committed by the respondent was minor and technical, which on the face of it may appear to be so, however, in case the correction of said mistake is permitted, the same would surely compromise the secrecy of the OMR answer sheet and the evaluation process inasmuch as on a request being made to permit correction, the OMR answer sheet would have to be taken out from the entire lot, the same would be corrected, resulting in identification of the OMR answer sheet with respect to a particular candidate and a possibility of further tinkering with the OMR answer sheet cannot be ruled out.

23. In the present case, the respondent may be one candidate, however, in a given examination there may be several such candidates who may claim to have committed some mistake in indicating the particulars and if it is held as a matter of principle that such mistakes in OMR sheets must be permitted to be corrected, the same would lead to chaos inasmuch as all such candidates then would be required to be permitted to make corrections, exposing the entire lot of OMR answer sheets, which consequence cannot be permitted.

Therefore, the argument of learned senior counsel that the petitioner should be allowed to correct the inadvertent mistake and/or her OMR sheet should be re-evaluated as per Test Booklet Series-A, cannot be entertained.

11. Reliance placed by the learned senior counsel on the Allahabad High Court Judgment in *Manoj Kumar* case (*supra*) is also misplaced. In that matter, the recruitment agency had itself re-evaluated OMR sheets of some other similarly placed candidates, who had inadvertently darkened circles of subjects not opted by them in the OMR sheet. Besides, as per instructions issued to the candidates, overwriting or erasing was to be treated as multiple marking only, and no marks for such an answer were to be awarded. Therefore, the sheets were ordered to be evaluated. The relevant paragraphs of the judgment are as under:

27. The petitioners have stated in paragraph 28 of the writ petition that in similar circumstances the OMR Answer sheet of some candidate who appeared in examination for recruitment pursuant to advertisement No. 01 of 2013, have been evaluated. This statement of fact has not been denied by the respondent in paragraph 6 of the counter affidavit which has been reproduced above. Therefore, the respondents cannot deny similar treatment to the petitioners.

28. The stand taken by the respondents for non evaluation of OMR Answers sheets of the petitioners, is not sustainable for one more reason. Instruction no. 11 provides that overwriting or erasing will be treated as multiple marking and no mark for that question would be awarded. Therefore, had the petitioners erased the mark inadvertently put by them in the circle of answers to questions of a non opted subject, then as per instruction no. 11 no mark was to be awarded. Petitioners are not claiming for marks

for darkening a wrong circle. Therefore, such marking in the circle by inadvertence merely needs to be ignored.

However, in the instant case, neither the Commission has re-evaluated OMR sheet of any other similarly placed candidate, nor is there any instruction that for discrepancy in darkening the right circle no marks will be awarded. Instead, the instructions clearly are that any omission or discrepancy in darkening the circles will render the OMR sheet liable for rejection.

12. In view of the discussion, there is no merit in the petitions, and the same stand dismissed.

13. A photocopy of this order be placed on the file of connected case.

(TRIBHUVAN DAHIYA)
JUDGE

13.12.2023
Payal

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>