



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

1. CWP-209-2022 (O&M)

.....Petitioner(s)

VERSUS

.....Respondent(s)

2. CWP-3565-2022 (O&M)

.....Petitioner

VERSUS

.....Respondent(s)

Present: Mr. H.S Saini, Advocate for the petitioners.

Ms. Shruti, AAG Punjab.

Ms. Ekjot Sandhu, Advocate
for respondent No.4 in CWP No.3565 of 2022.

HARSIMRAN SINGH SETHI, J. (Oral)

Present set of two writ petitions involve common question of law in the background of common set of facts and thus they are being decided by a common order.

In the present set of two petitions, the petitioners competed for the post of ETT Teacher as Advertised on 30.07.2021. As per the selection criteria, a candidate was to appear in the written examination and thereafter,

the candidate concerned was to be allowed to undertake further selection process in case he/she secure the minimum marks in the written examination.

The petitioners appeared in the written examination, which was held on 16.10.2021. While appearing in the written examination, as per the instructions, the candidate was to fill up the Booklet Series as to whether the same is “A”, “B”, “C” or “D” so that, the computerised checking of the answersheet i.e OMR sheets could be done properly.

The petitioners appeared for the said examination and marked their answers to the questions in the OMR sheet filled by the petitioners themselves, copy of which has been appended as Annexure P-6 and P-7, wherein have mentioned that they attempted the questions as mentioned in the Question Booklet Series “D”.

As per the petitioners, later on they came to know that they have wrongly filled the Booklet Series as “D” in the OMR sheets whereas they had attempted the question from Booklet Series “B” and “C”, as the case may be hence, the respondents were requested that their OMR sheet be evaluated as per the Booklet Series “B” or “C” as the case may be.

Thereafter, the result of the written examination was declared and the petitioners could not secure the minimum marks required to be selected for the post in question which led to filing of the present petitions with the grievance that the respondents be directed to re-evaluate the OMR sheet of the petitioners keeping in view of the Booklet Series which the petitioners actually attempted.

Learned counsel for the petitioners submits that the benefit which has been claimed in the present set of two petitions has already been

extended to the other similarly situated employees by respondents hence, the petitioners are being discriminated against especially when, immediately after the written examination, the petitioners have filed the representation for correction of their OMR sheet qua the Booklet Series mentioned therein.

Upon notice of motion, the respondents have filed the reply. In their reply, the respondents have stated that the OMR sheets are to be checked with the help of the computer and the candidates were made aware that they had to correctly fill the Booklet Series so that the answer sheet can be evaluated properly. It has been further mentioned by the respondents that as per the terms and conditions of the written examination, any fact mentioned in the OMR sheet cannot be allowed to be changed later hence, once the petitioners themselves have mentioned that they filled up the answers in the OMR sheet as per the Booklet Series in “D”, the same cannot be changed.

With regard to the allegations that the similarly situated candidates have been given the benefit, but the same is being denied to the petitioners, it is mentioned that some of the candidates who initially filled wrong Booklet Series, corrected the same in the OMR sheet to fill up the correct Booklet Series and when the scanner showed error while evaluating OMR sheet of those candidates, the correct Code which was mentioned in the OMR sheet was taken into account to manually evaluate the OMR sheets.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

As per the terms and conditions, under which the candidate was required to appear in the examination, the candidate was to fill up the correct

Booklet Series in the OMR sheet while appearing in the written examination. It was further mentioned that any incorrect Booklet Series mentioned, will not be rectified later on.

The petitioners concededly mentioned that they had marked the Booklet Series “D” in their OMR sheet which fact now is being disputed by them by stating that in fact, they had answered the question from a Booklet Series “B” or “C”, as the case may be and not from Booklet Series “D”. The filling of incorrect Booklet Series in the OMR sheet is on the part of the petitioners themselves and not due to any act of the respondents. Once, the petitioners have failed to mention the correct Booklet Series in the OMR sheet, the petitioners cannot raise a claim that now, they should be allowed to change the Booklet Series from “D” to “B” or “C”, as the case may be. The same will be not permitted as per the terms and conditions of the Advertisement dated 30.07.2021, which terms and conditions of the Advertisement are to be treated as sacrosanct otherwise, no written examination will attain finality.

With regard to allowing of the same benefit to the other similarly situated employees, the same cannot be accepted as, those candidates had though initially filled up the incorrect Booklet Series but in the OMR sheet which was submitted by them they had mentioned the correct Booklet Series and it was only when the computer showed error on account of cuttings in the OMR sheet, the OMR sheet was manually checked up keeping in view the fact that correct Booklet Series was also mentioned in the OMR sheet, which fact is missing in the case of the petitioners.

The candidates who are being claimed as similarly situated, rectified their mistakes immediately at the time of the written examination

mentioning correct Booklet Series hence, the petitioners cannot claim the same benefit as at no stage petitioners mentioned that they attempted questions from Booklet Series “B” or “C” and not from Booklet Series “D”.

In case, the argument of the petitioners is accepted, then a candidate who had done no wrong while appearing in the selection process and have already being selected and appointed will be ousted so as to accommodate petitioners. The candidate cannot be given a liberty to correct his/her mistake so as to oust another candidate, who has genuinely participated without their being any mistake on their part. The rights which have already accrued in favour of the other candidates crystallised qua the selection against the posts advertised, cannot be taken away at the instance of the petitioners so as to allow them to rectify their mistake, which mistake cannot be allowed to be rectified as per the terms and conditions of the Advertisement.

Keeping in view of above, no ground is made out for any interference by this Court in the present set of two petitions.

Hence, the present set of two petitions are dismissed.

Pending application, if any, also stands disposed of.

Photocopy of this order be placed on the file of other connected case.

18-10-2024

Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO