

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA NO. 418 OF 2024 (O&M)

RESERVED ON : MARCH 12, 2024

DATE OF DECISION : MARCH 21, 2024

Ankush Sharma ...Appellant

Versus

State of Punjab and others ...Respondents

LPA NO. 455 OF 2024 (O&M)

Amarjit Singh ...Appellant

Versus

State of Punjab and others ...Respondents

LPA No.463 OF 2024 (O&M)

Harpreet Kaur and another ...Appellants

Versus

State of Punjab and others ...Respondents

LPA NO.609 OF 2024 (O&M)

Sheela Rani ...Appellant

Versus

State of Punjab and others ...Respondents

LPA No.663 OF 2024 (O&M)

Manpreet Singh and another ...Appellants

Versus

State of Punjab and others ...Respondents

CORAM : HON’BLE MR. JUSTICE G. S. SANDHAWALIA,
ACTING CHIEF JUSTICE

HON’BLE MS. JUSTICE LAPITA BANERJI

Present : Mr. Satvir Singh, Advocate,
Mr. Kanwaljeet Singh, Advocate,
For the appellants in LPA Nos.418, 455, 463 & 609 of 2024.

Mr. Hardik Ahluwalia, Advocate,
For the appellants in LPA No. 663 of 2024.

Mr. Saurav Khurana, Additional Advocate General, Punjab.

LAPITA BANERJI, J.

Under consideration in the present appeal is a common judgment and order dated January 15, 2024 passed in CWP-23040-2023, CWP-26831-2023, CWP-21874-2023, CWP-1816-2023, CWP-22202-2023 and CWP-27167-2023, whereby the writ petitions were dismissed on refusal by the Hon'ble Single Judge to invoke extra ordinary writ jurisdiction, only because there was a difference in opinion of the appellants/writ petitioners with that of the experts in respect of the answer key provided to some of the questions. The Hon'ble Single Judge held that since the respondents duly constituted an Expert Committee which had examined all the objections by the appellants and then taken a conscious decision, it would not be appropriate for the writ Court to re-examine the answer key and interfere in the selection process.

2. LPA No.418 of 2024 arising out of CWP No.23040 of 2023, LPA 455 of 2024 arising out of CWP No.26831 of 2023, LPA No.463 of 2024 arising out of CWP No.21874 of 2023, LPA No.609 of 2024 arising out of CWP No.1861 of 2024, LPA No. 663 of 2024 arising out of CWP No.22202 of 2023 are disposed of vide this common judgment and order since common questions of facts and law arise in the aforesaid cases. For brevity, the recitals from **LPA No.418 of 2024** are considered, for the purpose of factual narrative.

3. The facts culled out from the perusal of paper-books reveal that the appellant who is presently working with respondent-department as

Constable in the district cadre participated in a promotional exercise for grant of promotion to the post of Head Constable. A written test known as Basic Proficiency Test-2023 (in short, “BPT-2023”) was conducted by the department on September 02, 2023, in which the appellant participated.

4. There were four sets of papers in BPT-2023 which had to be solved by different sets of candidates. The respondent-department released the answer key on September 02, 2023 itself and invited objections from the candidates with respect to the said answer key, till September 05, 2023. Thereafter, provisional merit list was published on September 18, 2023 and again objections were invited before the final list of promotees was drawn.

5. It was contended on behalf on behalf of the appellant in LPA-418-2024 that he had submitted his objections with regard to questions No.22, 45, 66, 78, 81 and 93 of Set-B in particular but the respondent-department without following proper procedure or considering the objections of the appellant, released a provisional merit list. Thereafter, objections were again invited to provisional merit list and the appellant again submitted his objections to questions No.22, 63 and 66 of Set-B to the respondent-department within the prescribed time limit.

6. Learned counsel for the appellant submitted that all the objections raised by him with respect to various questions were not considered by the Committee, therefore, the grievance of the writ petitioners/appellants remained unaddressed.

7. Furthermore, the learned counsel argued that question No.22 under Section 222 of the Indian Penal Code (for short “IPC”) was not properly framed and the said question should have been framed under Section 221 of the IPC. Therefore, ‘none of the above’ being option ‘D’ in the answer key should have been the correct answer and not option ‘A’ as projected in the

answer key. Similarly, it was sought to be argued that question No.63 in Series-B related to Section 26 of the Indian Evidence Act, 1872 (for short “Evidence Act”) and Option ‘A’ could not have been the correct option as projected in the answer key. Since correct option was not given, the appellant had chosen option ‘D’ which was ‘*none of the above*’ and that should have been reflected in the answer key as the correct option. It was further argued that since the questions were not rightly framed, marks across the board for such questions ought to have been given to all the candidates. Therefore, a prayer was made for constitution of an independent expert Committee to decide the objections raised by the appellant.

8. Taking into account the submissions made by learned counsel for the appellant qua all the objections raised by the candidates not being taken into consideration intentionally, the Hon’ble Single Judge allowed the State to produce the record prepared by the expert Committee while considering the objections raised by the candidates in order to ascertain whether all the said objections were taken into consideration. An affidavit of Ms.Amneet Kondal, Senior Superintendent of Police, Khanna-cum-Member, BPT-2023 was taken on record by the Hon’ble Single Judge.

9. A close perusal to the affidavit filed in **LPA No.418 of 2024** would reveal that BPT-2023 was conducted for promotion of the officials from the rank of Constable in Punjab Police to the rank of Head Constable was in accordance with the standing order No.12 of 2010 issued under Rule 13.20 of the Punjab Police Rules. In terms of the standing order No.12 of 2010, a Departmental Promotional Committee was comprised of Inspector General of Police as Chairman along with Deputy Inspector General of Police and two Superintendents of Police as members. In terms of the standing order (Annexure R-1), a Selection Committee was constituted under district police

cadre by the Director General of Police, Punjab comprising of following officers :

- i) Sh. S.S. Srivastava, IPS, ADGP, Security, Punjab and Chandigarh.
- ii) Dr. Kaustubh Sharma, IPS, IGP, Ludhiana Range, Ludhiana
- iii) Smt. Amneet Kondal, IPS, SSP, Police District Khanna.

10. The BPT-2023 examination was conducted on September 02, 2023. It carried a total of 100 marks, out of which the OMR based examination accounted for 95 marks with each question carrying 01 mark and additional 05 marks were allocated on the basis of service records of the candidates. A total of 7226 candidates applied for BPT-2023 out of which 6554 candidates participated and 712 candidates remained absent. On the very same day the answer key was uploaded on the official website. The candidates were given opportunity to raise the objections to the answer key till September 05, 2023. A total of 523 candidates raised objections regarding 49 questions. The appellant raised objections to 06 questions being questions No.22, 45, 66, 78, 81 and 93 of Series-B papers. The objections were sent to the Committee for evaluation.

11. After receiving of the objections, two meetings, one on September 09, 2023 and the other on September 11, 2023, were held by the Committee with respect to all the 49 objections. Out of 49 questions, 04 questions were found to be inaccurately drafted and as such grace marks pertaining to the incorrect questions were awarded to all the candidates. The answer key to one question was found to be inadvertently wrong due to clerical error so the same was changed and corrected. The details of the questions in the relevant series to which the objections were entertained are reproduced herein after :

Sr. No.	Question number and series	The question and the detail of objection	The decision taken by the Committee
01	Series- A/11 Series-B/81 Series-B/56 Series-D/31	According to Rule 21.25 of the Punjab Police Rules, 1934, who is considered to be in charge of all public proper in a police station: A-Outpost Constable B-Station Clerk C-Senior Police Officer present at the spot D-Senior Captain Police	Committee agrees to the objection, due to wrong question, all candidates are being awarded grace of (01) number.
2	Series-A/09 Series-B/79 Series-C/54 Series-D/29	Which Rule of the Punjab Police Rules, 1934 covers the proclaimed offenders and those who harbor them. A-2.1, B-21.3, C-21.4, D-21.5 Series-	The correct answer to this question is D. Hence, D is being marked as the right answer in the key.
3	Series-A/55 Question series- B/30 Series-C/54 Series-D/75	Gyaninder takes some boys with him to Harvinder's house, they threaten Harvinder with knife and sword and force Harvinder to sign a blank paper so that he can be abused. Express which Section of IPC applies to this crime. A-417, B-420, C-392, D-383	The options to this question are incomplete, so all candidates are being awarded grace of (01) number.
4	Series-A/23 Series-B/93 Series-C/68 Series-D/43	One music system and one refrigerator was sold at 12500. If Television was sold at 30% profit and washing machine was sold at 30% loss. Find out the profit or loss percentage of whole transaction : A-9%, B-11%, C-6%, D-12%	This question wrong, all candidates are being awarded grace of (01) number
5	Series-A/59 Series-B/34 Series-C/09 Series-D/79	A group of people decided to rob a petrol pump and they divide the roles among themselves for this robbery and promise to carry it not appear in out. Under which Section of the IPC the each member of the group would be held responsible. A-383, B-34, C-387, D-120	The correct answer to this question does not appear in the given options. Therefore, all candidates are being awarded grace of (01) number.

12. Remaining 44 objections were not accepted by the Committee after due deliberation. On September 18, 2023, a provisional result was uploaded on the website and the candidates were given another opportunity to raise objections with regard to provisional marks obtained by them. 111 objections were received by the deadline set on September 21, 2023. After the

receipt of such objections, candidates were called to RTC, PAP, Jalandhar on September 25, 2023 for further consideration and discussion relating to their objections physically. Out of 111 candidates who raised objections, only 95 were present. Apart from the said 95 candidates, 06 candidates who had not raised objections, were also present. All the objections raised by the candidates were duly entertained and the OMR sheets were thoroughly checked including the OMR sheet of the appellant. After checking the OMR sheets, the candidates including the appellant, signed undertakings stating their satisfaction in respect of all the objections raised. A *Satisfaction Certificate* was given by all the candidates including the appellant.

13. Perusal of the affidavit would further go to show that the appellant-Ankush Sharma had filed two sets of objections. On September 02, 2023 he objected to questions No.22, 45, 66, 78, 93 and 81 of Series-B, whereas on September 18, 2023 he raised objections to questions No.22, 63 and 66. In the writ petition, the petitioner/appellant had primarily challenged the answer key in relation to questions No.22 and 63. The second question was not even objected to in the preliminary objections. Furthermore, it has been stated in the affidavit that due process has been followed for redressal of the grievances of the appellant and the same was conducted in legal and impartial manner by giving grace marks for the wrong questions to all the candidates and the appellant has also recorded his satisfaction to the objections raised by him after being physically present on September 25, 2023 and thoroughly discussing the issue with the respondent authorities.

14. The affidavit filed in **LPA No.663 of 2024** arising out of CWP No.22202 of 2023, shows that the appellant No.1 raised objections to Questions No.16, 29, 67, 79 and 94 in Series-D and the appellant No.2 raised objections in Questions No.9 and 91 in Series-A on September 09, 2023 and

September 11, 2023 respectively, after expiry of the prescribed time limit. Still such objections were duly addressed by the expert Committee. The appellants were given a second opportunity to raise objections after the declaration of the provisional result. The appellants neither raised any further objections nor were present on the day of the physical meeting held on September 25, 2023. Therefore, in LPA No.663 of 2024 it could be safely presumed that the appellants acquiesced to the provisional result published on September 18, 2023 and waived off their rights to raise any further objections.

15. In affidavit filed in **LPA No.463 of 2024** arising out of CWP No.21874 of 2023, appellant/petitioner No.1 raised objections to questions No.22, 30, 40, 6 and 79 in Series-B and appellant/petitioner No.2 did not raise any objection at all. Out of 05 writ petitioners only writ petitioners No.1 and 2, who were present on the day of physical meeting at Jalandhar have filed the present appeal, as the writ petitioners No.3 and 5 got selected when the provisional result of BPT-2023 was declared. The appellant No.1 signed a *Satisfaction Certificate* being satisfied with the explanation given by the respondent authorities. The writ petitioner Nos.2 and 4 did not attend the said meeting. The appellant/writ petitioner No.2 by not raising objections and by not attending the said meeting had acquiesced to the provisional result dated September 18, 2023. The appellant No.1 has recorded his satisfaction to the decision taken by the expert Committee after detailed discussion regarding the OMR sheet on September 25, 2023 and thereby precluded from raising any further grievance. In **LPA No. 609 of 204** arising out of CWP No.1861 of 2024, no affidavit has been filed by respondent-State but reliance is placed on the common paragraphs of the aforesaid affidavits.

16. Upon consideration of documents and arguments made by the parties, this Court finds that due procedure has been followed by giving an

opportunity to the candidates to raise their objections to the answer key published by the authorities and against the provisional result/merit list declared by the authorities. Furthermore, the objections raised by the candidates were discussed threadbare with them in the physical meeting held on September 25, 2023. Upon being satisfied with the response of the respondent authorities, the candidates including the appellant signed the satisfaction certificate. There was no mention of signing a satisfaction certificate in the writ petition which was filed on October 07, 2023 after recording of such satisfaction.

17. The respondent authorities examined the objections by way of placing them before an expert Committee comprising of 03 IPS officers working with the Punjab police who were expected to have knowledge in questions relating to Indian Penal Code (IPC), Code of Criminal Procedure (Cr.P.C.), Indian Evidence Act, 1872, Punjab Police Act, 2007, Punjab Police Rules and general knowledge. There is no reason to doubt the knowledge and expertise of the said Committee in dealing with the objections raised by the candidates. The effort of the counsel to seek interference and to get us to assess the correctness of the answer key cannot be permitted keeping in mind the law holding the field on this point.

18. The Hon'ble Single Judge has correctly placed reliance on "***H.P Public Service Commission v. Mukesh Thakur and others***", 2010 (6) SCC 759 to hold that merely because the subject happens to be law, the Court could not arrogate to itself the powers of the expert Committee.

19. In "***U.P.P.S.C and others v. Rahul Singh and others***", 2018 AIR (Supreme Court) 2861, the Hon'ble Apex Court held that the onus was on the candidate to not only demonstrate that the answer key glaringly wrong and no inferential process or reasoning should be required to show that the answer

key was wrong, which the learned counsel for the appellant sought to do in the present case.

20. In “*Ran Vijay Singh and others v. State of U.P and others*”, 2018 (2) SCC 357, it was held that the Court should presume the correctness of the answer key and in the event of any doubt, the benefit should go to the examination authority.

21. A beneficial reference is made to the judgment by the three Judge Bench of Apex Court in “*Vikesh Kumar Gupta and another v. State of Rajasthan and others*”, reported in 2021 (2) SCC 309, wherein after detailed analysis of the judgments on the above mentioned issue it has been opined that the Courts should be very slow in interfering with the expert opinion in academic matters and assessment of questions by the Courts itself to arrive at correct answers is not permissible. Relevant extract is set out herein under :-

“xxx

17. A perusal of the above judgments would make it clear that Courts should be very slow in interfering with expert opinion in academic matters. In any event, assessment of the questions by the Courts itself to arrive at correct answers is not permissible. The delay in finalization of appointments to public posts is mainly caused due to pendency of cases challenging sections pending in Courts for a long period of time. The cascading effect of delay in appointments is the continuance of those appointed on temporary basis and their claims for regularization. The other consequence resulting from delayed appointments to public posts is the serious damage caused to administration due to lack of sufficient personnel.

Xxx”

22. In the light of the discussion made hereinabove and the fact that there is no allegation of mala fides levelled against the expert panel, the judgment passed by the Hon’ble Single Judge does not suffer from any infirmity and merits no interference.

23. Accordingly, the present letter patent appeals are dismissed.
Connected applications, if any, are accordingly disposed of.

(G. S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

MARCH 21, 2024
shalini

Whether speaking/reasoned : Yes
Whether reportable : No