



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-10584-2024 (O & M)
Reserved on: 22.07.2024
Pronounced on: 02.08.2024

RAJDEEP SINGH MANNPetitioner

Versus

PUNJAB AND HARYANA HIGH COURT AND ORS.Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Argued by: Mr. Manuj Nagrath, Advocate
for the petitioner.

Mr. Sanjay Kaushal, Senior Advocate with
Mrs. Neha, Advocate and
Mr. Birinder Khehar, Advocate
for respondents No. 1 and 2.

Mr. Vijayant Sehgal, Registrar (Recruitment),
Punjab and Haryana High Court.

Mr. Maninder Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J.

1. Through filing of the instant writ petition, the petitioner
herein seeks the hereinafter extracted reliefs.

a) For issuance of writ in the nature of Certiorari seeking quashing of the impugned result declared on 02.05.2024 (Annexure P-16) without deciding the objections dated 16.04.2024 (Annexure P-8) and 25.04.2024 (Annexure P-15) to the provisional answer key and without publishing final answer deed for General Knowledge examination to the extent that six questions be declared deleted which is subject to judicial review being vague, incorrect and does not have definite answer(s) with further prayer for grant of grace marks to all candidates for the General Knowledge Examination of Punjab Superior Judicial Service Examination-2024 which is liable

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into account the constitutional mandate;

b) Further prayer for issuance of writ in the nature of certiorari for setting the advertisement duly notified on the website of Respondent(s) bearing No. 185Gaz.1/VI.F.2 Dated 14.11.2023 (Annexure P-1) which is in contravention of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 where no provision for reservation for the post of Person with disability is provided which makes the advertisement as illegal, perverse and unconstitutional;

c) For issuance of writ, order or direction in nature of certiorari declaring the notice dated 14.04.2024 (Annexure P-7) inviting objections issued online only to submit objections within 2 days till 16.04.2024 5 PM be declared illegal and arbitrary as the objections should be considered before the final declaration of final answer key/result since the no valid notice is published and short duration to filed objections vide notice dated 14.04.2024 is manifestly unjust and arbitrary;

d) For issuance of writ, order or direction in nature of mandamus directing the Respondent(s) no.1 and 2 to consider the objection(s) filed by the petitioner and submitted to Respondent(s) vide email dated 16.04.2024 (Annexure P-8) which is filed with delay of about 3 hours on 16.04.2024 and second objections dated 25.04.2024 (Annexure P-15) filed before Respondent no.3 with respect to notice issued inviting objections to the provisional answer key of General Knowledge examination for the post of Additional District & Sessions Judge in the State of Punjab vide Direct Recruitment to Punjab Superior Judicial Service 2023-24) has remained undecided till date;

e) To call for 3 times candidates by giving grace marks in view of the tough nature of examination and shortage of strength of judicial officers in the State of Punjab;

Submissions of the learned counsel for the petitioner.

2. That the petitioner applied in the category of Persons with Benchmark Disabilities (hereinafter for short called as the PwBD) owing to physical limitation having Locomotor Disability with 60 percent disability. That the advertisement does not provide any

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reservation under this category which is in contravention to the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (hereinafter for short called as the 1995 Act).

3. The petitioner has filed the present writ petition, challenging the provisional result declared on 02.05.2024 (Annexure P-16) and earlier theretos on 16.04.2024 he had raised objections (through e-mail) to the examination conducted qua General Knowledge paper, inasmuch as, some questions put forth in the said examination rather containing vague and indefinite answers. The present petitioner is seeking awarding of marks (grace marks), as the petitioner is short of 2 marks in GK examination. Further, the petitioner has a shortfall of 7 marks in Civil Law-1 examination, qua which the matter is under consideration for 26 July 2024 before Hon'ble Supreme Court of India.

4. The petitioner through his counsel filed detailed apposite objections which were filed with a delay of approximately 3 hours 20 minutes, as the time to file objections was till 5.00 P.M., by 16.04.2024. Since no reply to the said objections became received, thereby the petitioner through his counsel sent second representation vide email dated 25.04.2024, submitting therein that the status of the objections filed on 16.04.2024, be intimated to him, which yet remain undecided.

5. The mode and manner in which the result is published without deciding the objections before the result is published, thus is contended to vitiate the publication of notice, thus inviting objections



to provisional answer key for the General Knowledge examination, besides makes the entire examination process to be void.

6. That the reply filed by the respondents is vague and evasive since none of the issues, as raised by the petitioner have been addressed. The respondents did not address the controversy relating to the vague nature of the questions, thus through presenting any document to highlight any consideration being made by the Expert Committee in respect of the vague nature of the questions. The said questions are extracted hereinafter.

A. Question No. 19

'Jyotirling of Omkareshwar' is situated at bank of which river?

A. Chambal

B. Kshipra

C. Narmada

D. Tapti

That the answer to this question as provided in Answer Sheet is (C) as per answer key:

In Reference to the above question, it is important to highlight herein that the answer to the above question is uncertain and ambiguous since the 'Jyotirlinga of Omkareshwar' is situated on Mandhata or Shivpuri Island on banks of river Narmada and Kaveri as per domain of 'Wikipedia' however the Tapti River also merges in Narmada which makes the question ambiguous and uncertain.

The literature is appended herewith as Annexure P-9

B. Question 24

Who out of the following was elected as the President of India unopposed?

A. Dr. Rajendra Prasad

B. Dr. Radhakrishnan

C. Dr. Neelam Sanjiva Reddy

D. Dr. K. R. Narayanan

That the answer to this question as provided in Answer Sheet is (C)

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**as per answer key:**

In Reference to the above question, it is important to highlight herein that the answer to the above question is uncertain and ambiguous since Dr. Rajendra Prasad duly acted as required by the Constitution and was independent of any political party. He traveled the world extensively as an ambassador of India, building diplomatic rapport with foreign nations. Elections for the post of first president of India were to be held on 24 January 1950. There was only one nominee for the post, Rajendra Prasad and he was elected, unopposed, as the President. He was re-elected for two consecutive terms in 1952 and 1957 and is the only President of India to achieve this feat which makes the question ambiguous and uncertain. The literature taken from well recognized source is appended herewith as Annexure P-10.

C. Question 39

The Indian Railways has launched an initiative to focus on the security of women named as?

- A. Meri Saheli*
- B. Meri Sahayatri*
- C. Meri Suraksha*
- D. Meri Sakhi*

That the answer to this question as provided in Answer Sheet is (A) as per answer key:

i. As per Wikipedia the 'Meri saheli' is initiated by Indian Railways for safety and security of women.

ii. However the Operation "Mahila Suraksha" which is provided online website of RPF shows the following

"Besides several steps taken to enhance the security of women passengers, an initiative 'Meri Saheli initiative' was launched across Indian Railways network from 17.10.2020. The objective of this initiative is to provide safety and security to lady passengers travelling alone or with minors by long distance trains for their entire journey from originating station to terminating station. Dedicated teams of lady RPF personnel have been formed across all zonal railways for its implementation. Presently, 1125 women RPF personnel in 283 teams are being deployed for this purpose on an average daily across Indian Railways."

The literature is appended herewith as Annexure P-11.

D. Question 73

India leads the world in the production of?

- A. Sheet mica*
- B. Iron*

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C. Copper

D. Gypsum

That the answer to this question as provided in Answer Sheet is (A) as per answer key:

In Reference to the above questions, it is important to highlight herein that the answer to the above question is uncertain and ambiguous since China lead as largest producer of sheet mica and gypsum in the world, Chile leads as largest producer of copper and Australia lead as largest production of Iron. India is not largest producer in any of the options given which makes the question ambiguous and uncertain.

The literature is appended herewith as Annexure P-12

E. Question 89

Which of the following female cheetah named by Prime Minister Narendra Modi, gave birth to three cubs inside Kuno National Park in Madhya Pradesh?

A. Aastha

B. Aashiya

C. Asthma

D. Aasha

That the answer to this question as provided in Answer Sheet is (D) as per answer key:

In Reference to the above questions, it is important to highlight herein that the answer to the above question is uncertain and ambiguous since Times of India and HT shows the answer as 'Jawala'. The literature is appended herewith as Annexure P-13.

F. Question 92

Global warming increases due to in the atmosphere

A. Carbon Monoxide

B. Carbon Dioxide

C. Ozone

D. Chloro Fluorocarbon

That the answer to this question as provided in Answer Sheet is (B) as per answer key:

Doubtful

That as per the "Britannica" The scenarios referred to above depend mainly on future concentrations of certain trace gases, called

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greenhouse gases, that have been injected into the lower atmosphere in increasing amounts through the burning of fossil fuels for industry, transportation, and residential uses. Modern global warming is the result of an increase in magnitude of the so-called greenhouse effect, a warming of Earth's surface and lower atmosphere caused by the presence of water vapour, carbon dioxide, methane, nitrous oxides, and other greenhouse gases. In 2014 the IPCC first reported that concentrations of carbon dioxide, methane, and nitrous oxides in the atmosphere surpassed those found in ice cores dating back 800,000 years.

That as per "Wikipedia" Greenhouse gases (GHGs) are the gases in the atmosphere that raise the surface temperature of planets such as the Earth. What distinguishes them from other gases is that they absorb the wavelengths of radiation that a planet emits, resulting in the greenhouse effect. The Earth is warmed by sunlight, causing its surface to radiate heat, which is then mostly absorbed by greenhouse gases. Without greenhouse gases in the atmosphere, the average temperature of Earth's surface would be about -18 °C (0 °F), rather than the present average of 15 °C (59 °F).

xxxx xxxx xxxx

The literature is appended herewith as Annexure P-14.

Reply/submissions on behalf of respondents No. 1 and 2 and inferences of this Court.

7. Admittedly, the petitioner has joined as Civil Judge (JD) in the State of Punjab on 27.03.2024 and thus, is no more an advocate in continuous practice and therefore, has become ineligible for appointment as District Judge, even if he had been able to qualify the said examination. The Division Bench of this High Court in its verdict rendered in case titled as **"Hardeep Kaur vs. Punjab and Haryana High Court and Anr."**, to which **CWP No. 8817 of 2019**, became assigned, **decided on 30.09.2022**, has specifically held that a candidate is not only required to be qualified on the last date of receipt of application i.e. the cut off date fixed under Rules, inasmuch as, the candidate possessing the experience of 7 years of practice as an Advocate, but further that he is required to be continuing to be a practising advocate on the date of appointment. A candidate who might



be eligible on the cut off date, being an Advocate with 7 years practice, but if he at the time of the making of the appointment, to the Office of District Judge (Entry Level), rather has already joined service with the Judiciary or has joined any other service of the Union or State, therefore, when as such he is rather not continuing to be a practicing Advocate on the date of appointment. Resultantly therebys, he is not eligible to be appointed as a District Judge (Entry Level) by way of direct appointment.

8. The above made contention addressed by the respondents on their reply furnished on affidavit, is sacrosanct, as it naturally acquires force from the judgment (supra) besides acquires force and tenacity from the Rule (supra) and also from the note mentioned underneath the column of eligibility/qualifications relating to the making of direct appointment to Punjab Superior Judicial Service 2023-24, as occurs in the advertisement/notification No. 185 Gaz.I/VI. F.2 dated 14.11.2023, issued in the said regard. The said Rule as well as the note (supra) is ad verbatim extracted hereinafter.

(Rule 10 of the Punjab Superior Judicial Service Rules, 2007)

10. Qualification – Qualifications for direct recruitment shall be as follows :-

- (a) must be a citizen of India; and*
- (b) must have been duly enrolled as an advocate for a period of not less than seven years and must have practiced, as such, during the said period;*

(Note in the Advertisement for direct recruitment)

3. Eligibility/Qualifications:-

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xxxx xxxx

*Note :- [1] In the light of Judgment dated 19.02.2020, passed by Hon'ble Supreme Court of India in SLP (C) No. 14156 of 2015 titled as 'Dheeraj Mor Vs. Hon'ble High Court of Delhi, **an Advocate has to be continuing in practice for not less than 7 years as on the cut-off date and at the time of appointment as District Judge.** Members of judicial service having 7 years' experience of practice before they have joined the service or having combined experience of 7 years as lawyer and member of judiciary, are not eligible to apply for direct recruitment as a District Judge."*

9. Furthermore, since the petitioner uncontrovertedly joined as a Civil Judge in the State of Punjab on 27.03.2024, thereupons, when he invited the dis-qualification as cast in the relevant clause (supra) rather with a prescription therein, that even on the date of appointment or initial entry in judicial services, the aspirant concerned is required to be a practising Advocate, which however the petitioner could not be thus deemed to be continuing as a practicing Advocate, even if assumingly the apposite appointment was delivered to him. In consequence, the petition is not maintainable.

10. Furthermore, the petitioner has only challenged the answer key of the G.K. paper, whereas, as per the result of the examination declared on 30.05.2024, the petitioner has also failed in Civil Law-II paper, having secured 72 marks against the qualifying requirement of 80 marks as declared in clause 8.4 of the advertisement. The said clause 8.4 is extracted hereinafter.

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"8.4. Candidates securing 40% or more marks in each paper will be called for viva voce. But merely securing 40% or more marks would not confer any right to be called for viva voce. This Court shall have the discretion to shortlist the candidates equal to three times the number of vacancies for viva-voce. Further, no candidate will be considered to have successfully qualified the Punjab Superior Judicial Service Examination unless he/she obtains 50% marks (read 45% marks for the SC/BC category candidates) in the aggregate out of the total marks fixed for the written test and vivavoce. It is also made clear that no candidate will get the right to be appointed even if he/she obtains 50% marks (read 45% marks for the SC/BC category candidates) in the aggregate of the written test and viva-voce. However, candidates will be appointed strictly in the order of merit (category wise) in which they are placed after the result of written test and viva-voce.

11. Thus, the challenge to the G.K. paper only, but is of academic importance alone and would not have any effect on the result already declared.

12. Furthermore, as per clause 12.21 of the advertisement, it was the duty of the candidates to regularly visit the website of High Court for any information regarding the examination. The said clause 12.21 is extracted hereinafter.

"12.21 All announcements/information regarding this recruitment process will be notified on the official website of this Court i.e. www.highcourtchd.gov.in. All the candidates are advised to regularly visit the website in their own interest. This Court shall not be responsible for missing or non-receipt of any information on account of his/her failure to checkup with the official website from time to time."

13. The common/joint G.K. paper for PSJS/HSJS was held on 24.03.2024. The provisional answer key was uploaded on the website of the High Court on 11.04.2024, clearly mentioning that the portal for

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inviting objections will go live from 14.04.2024 to 16.04.2024. The contents of notice are extracted hereinafter.

"HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH
PUNJAB AND HARYANA SUPERIOR JUDICIAL SERVICE
COMBINED MAIN WRITTEN EXAMINATION-2024

(GENERAL KNOWLEDGE PAPER HELD ON 24.03.2024)
ANNOUNCEMENT

The Provisional Answer Key of General Knowledge Paper held on 24.03.2024 of Punjab and Haryana Superior Judicial Service Main Written Examination is attached herewith for information of the candidates to afford an opportunity for filing objection(s), if any.

The candidates may submit their objection(s), if any, with supporting material qua question paper and answer key from 14.04.2024 to 16.04.2024 up-to 5:00 P.M. through online portal available on the official website of this Court or on http://phhc.gov.in/home.php?search_param=exam_obj. Objections received thereafter shall not be considered.

Sd/- Registrar Recruitment"

14. However, the petitioner has himself admitted that he did not file any objection to the G.K. answer key, thus on the aforesaid portal rather within the stipulated time. Though, the petitioner alleges having sent the objections through E-mail on 16.04.2024 at about 8:15 P.M. However, as per record no such objections have been received by the answering respondent and no e-mail id was mentioned in the notice for submission of the online objections.

15. Therefore, the filing of objections rather beyond the stipulated period of time also estops the petitioner from instituting the instant writ petition, but obviously on the premise qua his abandoning and foregoing the initial opportunity, as became granted to him.

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16. The last date fixed for submission of online objections was sacrosanct and the petitioner cannot be allowed to file belated objections and then agitate that the same were not considered, especially when advance notice about inviting of objections was issued and also sufficient time for submission of objections became granted. It is relevant to mention that 23 candidates had filed 46 objections against the G.K. answer key which in itself demonstrates that all the candidates had sufficient knowledge and time for filing objections. Importantly, except the petitioner no other candidate has come forward raising the plea of non receipt of notice or assigning of insufficient time for the filing of objections.

17. In addition, the objections so received against the provisional answer key were forwarded to an Expert Panel with a request to examine the same and furnish report. The Expert Panel examined and submitted its report which was further re-examined by the Hon'ble Recruitment Committee (Superior Judicial Service) in its meeting dated 23.04.2024, when report (supra) became accepted by the said Committee, whereupons but obviously when no change in the provisional answer key was made. Resultantly, the petitioner cannot argue that any of the key answers were vague nor can he argue that there was no consideration by the Expert Committee vis-a-vis the purported vagueness and indefiniteness qua the key answers or qua the hereinabove choices to the hereinabove alluded questions.

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18. As per clause 12.18, it was specifically mentioned in the advertisement that the re-evaluation of the answer sheet is not allowed.

The said Clause 12.18 is extracted hereinafter.

12.18 Re-evaluation of answer sheets is not allowed. Only re-checking of answer sheets (ie. no part of the answer sheets has been left unevaluated or there is no totalling error) can be allowed on a written request from a candidate addressed to the Registrar (Recruitment), High Court of Punjab and Haryana, Chandigarh through Co-ordination Branch, High Court of Punjab and Haryana, Chandigarh, on payment of fee of Rs. 500/- per answer sheet (in the shape of Indian Postal Orders payable in favour of Registrar General, High Court of Punjab and Haryana, Chandigarh) within thirty days from the date of display of marks on the official website of this Court. No separate request in this regard by any candidate or any other person on their behalf shall be entertained under the RTI Act for re-evaluation/re-checking etc."

19. Hon'ble Supreme Court in its verdict rendered in case titled as ***Dr. NTR University of Health Sciences Vs. Dr. Yerra Trinadh & Ors.*** to which ***Civil Appeal No. 8037-38 of 2022*** became assigned posed a specific question qua whether, in absence of any provision for re-evaluation, the High Court while exercising powers under Article 226 of Constitution of India, thus was justified to order for re-evaluation. The answer to the said question was made in para No. 9 of the said verdict, wherein it has been expostulated that *such a practice of calling for answer scripts/answer sheets and thereafter to order re-evaluation that too in absence of specific provision in the relevant rules for re-evaluation and that too while exercising powers under Article 226 of the Constitution of India is disapproved.* Therefore, in the absence of any rule or any provision, thus the petitioner cannot be granted grace marks nor his answer sheets could be re-evaluated.



FINAL ORDER OF THIS COURT.

20.

In aftermath, this Court finds no merit in the writ petition, and, with the above observations, the same is dismissed.
21.

No order as to costs.
22.

Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

02.08.2024

kavneet singh

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