



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

236+103 +228
(14 cases)

Date of Decision : 05-08-2024

1. CWP-2601-2018 (O&M)
PREETAM SINGH AND OTHERSPetitioner(s)

VERSUS

STATE OF PUNJAB AND OTHERSRespondent(s)

2. CWP-2602-2018
POONAM RANI AND OTHERSPetitioner(s)

VERSUS

STATE OF PUNJAB AND OTHERSRespondent(s)

3. CWP-7239-2018
JASWINDER SINGH AND OTHERSPetitioner(s)

VERSUS

STATE OF PUNJAB AND OTHERSRespondent(s)

4. CWP-3540-2018 (O&M)
RANJIT SINGHPetitioner(s)

VERSUS

STATE OF PUNJAB AND ANRRespondent(s)

5. CWP-12479-2018 (O&M)
MANPREET KAURPetitioner(s)

VERSUS

STATE OF PUNJAB & ORSRespondent(s)

6. CWP-22221-2018
ANJU BALAPetitioner(s)

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondent(s)

7.

CWP-26248-2018 (O&M)

MOHD NASIR

.....Petitioner(s)

VERSUS

STATE OF PUNJAB AND ORS

.....Respondent(s)

8.

CWP-13607-2020

MANDEEP SINGH AND ANR

.....Petitioner(s)

VERSUS

STATE OF PUNJAB AND ORS

.....Respondent(s)

9.

CWP-2837-2021

AMANPREET KAUR AND ORS

.....Petitioner(s)

VERSUS

STATE OF PUNJAB AND ORS

.....Respondent(s)

10.

CWP-6387-2021

JASBIR KAUR

.....Petitioner(s)

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondent(s)

11.

CWP-1919-2020

BALKAR SINGH

.....Petitioner(s)

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondent(s)

12.

CWP-21033-2019

GURINDER KAUR

.....Petitioner(s)

VERSUS

STATE OF PUNJAB AND ORS

.....Respondent(s)

13.

CWP-20962-2016

MANISHA SHARMA

.....Petitioner(s)

VERSUS

STATE OF PUNJAB & ORS

.....Respondent(s)

14.

**CM-18285-2023 in/
CWP-21134-2016 (O&M)**

NEETU MAHAJAN

.....Petitioner(s)

VERSUS

STATE OF PUNJAB AND ORS.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Parvesh K. Saini, Advocate
for the petitioners in CWP Nos.2601, 2602 and 7239 of 2018.

Mr. Rohit Duggal, Advocate for
Mr. Sardavinder Goyal, Advocate
for the petitioner in CWP No.3540 of 2018.

Mr. S.S. Thakur, Advocate
for the petitioner in CWP No.12479 of 2018.

Mr. Vishal Mittal, Advocate for
the petitioner in CWP No.22221 of 2018.

Mr. Surmukh Singh, Advocate
for the petitioners in CWP No.26248 of 2018.

Mr. Sukhdev Kamboj, Advocate
for the petitioners in CWP No.13607 of 2020.

Ms. Kiranjeet Kaur, Advocate
for the petitioner in CWP No.2837 of 2021.
(joined through Video Conferencing).

None for the petitioner in CWP No.6387 of 2021.

Mr. R.S. Dhaliwal, Advocate
for the petitioner in CWP No.1919 of 2020.

Mr. Ajay Sharma, Advocate
for Mr. R.S. Pandher, Advocate for
the petitioner in CWP No.20962 of 2016.

Mr. Inderjit Sharma, Advocate
for the petitioner in CWP No.21134 of 2016.

Mr. HPS Ishar, Advocate with
Mr. Dheeraj Kumar, Advocate
for the petitioner in CWP No.21033 of 2019.

Mr. Satnampreet Singh Chauhan, DAG Punjab.

Mr. Tuneet Walia, Advocate for
respondent No.4 in CWP No.21134 of 2016.

Mr. Brea Sandhu, Advocate for
Ms. Deepali Puri, Advocate
for respondent No.3-GNDU in
CWP No.26248 of 2018.

Ms. Isha Goyal, Advocate
for respondent No.3 in CWP No.1919 of 2020
and CWP No.6387 of 2021.

Mr. Tarun Vir Singh Lehal, Advocate
for respondent-GNDU.

HARSIMRAN SINGH SETHI, J. (Oral)

Present bunch of fourteen 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.

The grievance raised by the petitioners in the present petition is that the petitioners competed in pursuance of Advertisement dated 10.09.2017 (Annexure P-1), for filling up 398 posts of Punjabi Master/Mistress to be appointed in the Education Department, Punjab. The last date for the submission of application form was 14.10.2017, which was further extended to 25.10.2017.

The selection to the post in question was to be made on the basis of the written examination which was conducted by the Guru Nanak Dev University, Amritsar on behalf of the Selecting Agency. Petitioners appeared in the written examination and after the examination, the answer key was published seeking objections from the candidates. Large number of

objections were received by the Selecting Agency which was forwarded to the Guru Nanak Dev University, Amritsar.

In its wisdom, the Guru Nanak Dev University, Amritsar referred those objections to an Expert Professor and after the opinion of the said Expert Professor, the objections to the answer key were decided and final answer key was prepared and the result of the written examination was declared on the basis of the final answer key which was prepared keeping in view the report of the expert.

Feeling aggrieved by the result of the written examination which was declared on the basis of final answer key, the present bunch of petitions have been filed wherein, it has been averred that rather than sending the objection to the initial answer key to the Guru Nanak Dev University, the same should have been sent to another independent expert and further that the expert cannot be a single person and rather a Committee of Experts should have been formed so as to decide the objections raised by the candidates to the initial answer key.

Upon notice of motion, the respondents have filed the reply wherein the respondents have stated that the objections received by the Selecting Agency were forwarded to the Guru Nanak Dev University, Amritsar and the University had sought the opinion of an Expert Professor on the objections received and keeping in view the expert advise received, the answer key was finalised on the basis of which, the final result of the written examination was declared hence, no grievance can be raised by the petitioners qua the final answer key or the result of the written examination.

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

The issue with regard to the jurisdiction of the Court with regard to the opinion given by the Expert to the objections raised by the candidates qua the intial answer key, has already been settled by the Hon'ble Supreme Court of India in Civil Appeal No.367 of 2017 titled as ***“Ranvijay and others Vs. State of U.P and others”*** decided on 11.12.2017 wherein it has been held that once the objections raised have been dealt with by an Expert, the Court should be reluctant to interfere with the opinion of the experts.

As per the judgment in ***Ranvijay's case (supra)***, Hon'ble Supreme Court of India has held that even if there is a grey area after the opinion of the expert, the benefit will go to the recruiting agency and not to the candidate hence, the Court should not interfere. The relevant paragraph of the judgment is held as under:-

“30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are: (i) If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it; (ii) If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the Court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any "inferential process of reasoning or by a process of rationalisation" and only in rare or exceptional cases that a material error has been committed; (iii) The Court should not at all re-evaluate or scrutinize the answer sheets of a candidate-it has no expertise in the matter and academic matters are best left to academics; (iv) The Court should

presume the correctness of the key answers and proceed on that assumption; and (v) In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.”

Thereafter, in a similar matter, the indulgence was shown by this Court even after the report of the Expert Committee to hold that certain observations of the Expert Committee needs to be revisited. The matter was ultimately decided by the Hon’ble Supreme Court of India, wherein indulgence of the High Court so as to revisit the issue was held to be bad in CWP No.7727 of 2019 titled as “**HPSC Vs. State of Haryana and ors.**” decided on 30.09.2019. Relevant paragraph of the said judgment is as under:-

“By the impugned judgment, the Division Bench has appointed the second Expert Committee for appraisal of the question papers.

Record reveals that the Appellant, Haryana Public Service Commission (for short, 'the Commission') undertook selection process to appoint 133 Assistant Professors of Geography (College) Cadre HES-II for which an objective type question paper was set up wherein the candidates were required to answer 100 questions. Grievance before the learned single Judge was that out of 100 questions, most of them were either ambiguous or not having correct answer keys. Such questions were brought to the notice of the Commission by raising objections. The candidates identified 46 questions as defective. The Commission based on the objections of candidates, appointed a Committee of Experts in the field for appraisal of the question papers.

The Expert Committee, on going through the question paper in detail, concluded that seven questions were either ambiguous or not having correct answer keys. Consequently,

the Commission accepting the Expert Committee's report deleted those seven questions and marks and thereafter the results were declared. Thereafter, the candidates approached the learned Single Judge with a writ petition.

Learned Single Judge curiously acted himself as an expert and on going through the question paper concluded that four more questions were ambiguous and, therefore, they should also be deleted from consideration.

Then, some of the candidates approached the Division Bench and the Division Bench passed the impugned orders appointing another Expert Committee which is challenged in this petition.

If the judgment of the Division Bench is allowed to stand, there will be no finality to the selection process. There was no allegation as such against the Expert Committee which was appointed by the Commission. The Expert Committee, in its wisdom has concluded that seven questions were either ambiguous or the answer keys were not correct. Accepting the said report, the Commission has proceeded with the selection process and results were announced. Thereafter, the candidates approached the High Court. Though learned Single Judge was right in agreeing for deletion of seven questions, was not justified in acting as an expert in the field and, therefore, the learned Single Judge's order relating to deletion of four questions also cannot be accepted.

Accordingly, the judgment of the learned Single judge as well as that of the Division Bench stand set aside.

The appeal is, accordingly, allowed. The selection process made by the Commission based on the First Expert Committee Report deleting seven questions from consideration stands confirmed. There shall be no order as to costs".

A bare perusal of the above reproduction would show that once the Expert Committee report has been relied and the result so declared is in accordance with the advice of the expert.

This Court will not have any jurisdiction to interfere with the opinion of the experts so as to accept that the claim of the petitioners so as to revisit the objection raised to the answer key.

Learned counsel for the petitioners has placed reliance upon the judgment of the Co-ordinate Bench of this Court in Civil Writ Petition No.10309 of 2012 titled “***Jatinder Kumar and ors. Vs. Haryana Public Service Commission and ors.***” decided on 30.08.2012. It may be noticed that the said judgment is of the year 2012 whereas, the law has been settled by the Hon’ble Supreme Court of India in ***Ranvijay’s case (supra)***, in the year 2017.

Even otherwise, the observations of the Co-ordinate Bench of this Court in ***Jatinder Kumar’s case (supra)*** is only where, the objections were referred to the same examiner who had set the question papers whereas, in the present case, learned counsel for the petitioners have not been able to point out that the Expert Professor is not a neutral person in any way. In the absence of any such factual averments on record, mere allegation that once the Guru Nanak Dev University had conducted the examination, the objections raised to the initial answer key should have been referred to another University cannot be accepted. Once the reputed body has sought opinion from an expert Professor, this Court will not interfere in the said opinion of expert keeping in view the settled principle of law noticed hereinbefore especially when there is no malafide alleged.

No ground is made out for any interference by this Court in the facts and circumstances of the present bunch of cases.

Hence, the present bunch of petitions is dismissed.

Pending applications, if any, also stand disposed off.

Photocopy of this order be placed on files of other connected cases.

05-08-2024

Sapna Goyal

(HARSIMRAN SINGH SETHI)

JUDGE

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