IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

255 (11 cases)

(1)CWP-19938-2021 (O&M)
Date of Decision :18.07.2024

Davinder Singh **...Petitioner**

Versus

State of Punjab and others **...Respondents**

(2)CWP-16951-2021 (O&M)

Manpreet Singh **...Petitioner**

Versus

State of Punjab and others **...Respondents**

(3)CWP-17074-2021 (O&M)

Raman Kumar **...Petitioner**

Versus

State of Punjab and another **...Respondents**

(4)CWP-18232-2021 (O&M)

Rajandeep Kaur and others **...Petitioners**

Versus

AARTI SHARMA
2024.07.23 16:44
I attest to the accuracy and
integrity of this document

State of Punjab and others **...Respondents**

(5)CWP-19754-2021 (O&M)

Rajinder Singh and others **...Petitioners**

Versus

State of Punjab and others **...Respondents**

(6)CWP-25370-2021 (O&M)

Prince Kumar **...Petitioner**

Versus

State of Punjab and others **...Respondents**

(7)CWP-17355-2021 (O&M)

Navpreet Singh **...Petitioner**

Versus

State of Punjab and others **...Respondents**

(8)CWP-25290-2021 (O&M)

Sidharath Choudhary **...Petitioner**

Versus

State of Punjab and another **...Respondents**

AARTI SHARMA
2024.07.23 16:44
I attest to the accuracy and
integrity of this document

(9)CWP-2377-2022 (O&M)

Gurpreet Singh and others **...Petitioners**

Versus

State of Punjab and others **...Respondents**

(10)CWP-20623-2022 (O&M)

Jagdeep Singh **...Petitioner**

Versus

State of Punjab and others **...Respondents**

(11)CWP-15008-2022 (O&M)

Ravinder Singh and another **...Petitioners**

Versus

State of Punjab and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Harvinder Singh Mann, Advocate
for the petitioner in CWP-19938-2021.

Mr. Pankaj Garg, Advocate
for the petitioner in CWP-16951-2021.

Mr. Yagyadeep, Advocate for the petitioners
in CWP-19754-2021.

AARTI SHARMA
2024.07.23 16:44
I attest to the accuracy and
integrity of this document

Mr. Pawandeep Singh, Advocate for the petitioners
in CWP-25370-2021, CWPs-2377, 20623 & 15008-2022.

Mrt. P.K. S. Phoolka, Advocate for the petitioner
in CWP-17355-2021.

Mr. Parvinder Singh, Advocate for the petitioner
in CWP-25290-2021.

Mr. Brijesh, Advocate for the petitioners in
CWP-17074-2021 & CWP-18232-2021

Mr. Arun Gupta, DAG, Punjab.

* * *

Harsimran Singh Sethi, J. (Oral)

Present bunch of petitions is being decided together as all the writ petitions involve the same question of law on similar facts.

In this bunch of petitions, the issue raised by the petitioners is that the question No.2 of the booklet set (D) in the written examination conducted for the post of Revenue Patwari, Ziledars and Irrigation Booking Clerk (Patwari) is liable to be deleted as the same was not correctly framed.

Further prayer of the petitioners is to review/revise the combined merit list prepared by the department and thereafter, make fresh selection to the post in question.

In response to the averments made in the petitions, the respondents have filed reply wherein, it has been stated that after conducting the written examination on 06.09.2021 provisional answer key was uploaded on the official website and the objections were invited from the candidates qua the said provisional answer key and all the objections filed including to the question No.2 were placed before the committee of experts and keeping in view the opinion given by the experts committee, the

AARTI SHARMA
2024.07.23 16:44
I attest to the accuracy and
integrity of this document

final merit list was prepared.

As per the respondents, once, all the objections have been dealt with by the experts committee, no grievance can be raised by the petitioners before this Court qua the final merit list.

The question which arises for determination before this Court is whether or not, this Court has jurisdiction to interfere with the opinion given by the experts committee qua the question No.2 of booklet Set (D).

The said question has already been settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.367-2017 titled as Ran Vijay Singh and others vs. State of U.P. and others decided on 11.12.2017,*** wherein, it has been held that once, the objections raised to the provisional answer key were put before the experts committee and on the basis of the recommendations of the experts committee, final merit has been prepared, the Courts will have no jurisdiction to interfere with regard to any grievance relating to the same. Hon'ble Supreme Court of India has further held that even if, after the report of the experts committee, there is any gray area qua any question, the benefit of the said gray area has to be given to the recruiting agency and not to the candidates. Relevant paragraph of the judgment is 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

AARTI SHARMA
2024.07.23 16:44
I attest to the accuracy and
integrity of this document

> 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."

A similar view has been taken by the Hon'ble Supreme Court of India once again in SLP wherein, similar grievance was raised before this Court, which was accepted while dismissing ***SLP (Civil) having diary number 30367-2024, titled as Robin Sharma vs. Haryana Public Service Commission on 11.07.2024*** holding that once, a view has been taken by the experts committee and the same has been relied upon while deciding the final merit list, no interference is called for by this Court.

Keeping in view the above, grievance being raised by the petitioners qua the deletion of question No.2 in booklet set (D) cannot be accepted.

Further, in CWP-19754-2021, the minimum marks required to clear the written examination has been challenged on the ground that the ex-serviceman candidates should be given relaxation.

It may be noticed that the employer has the jurisdiction to prescribe the criteria required to be followed for selection to a post and

AARTI SHARMA
2024.07.23 16:44
I attest to the accuracy and
integrity of this document

unless and until the said prescribed criteria is based upon some extraneous consideration or tailor made to suite someone, the Court will have no jurisdiction to entertain a plea to change the criteria, much less the candidates will have jurisdiction to pray that the criteria suitable to them should have been framed while making selection to the post of Patwari. Even otherwise, no relaxation can be claimed as a matter of right.

In the present case, once a minimum qualification has been prescribed for each of the category, candidates cannot claim that the said criteria should be relaxed. Hon'ble Supreme Court of India while passing order in ***Civil Appeal No.2250-2252 of 2020 titled as Dr. Thingujam Achouba Singh and others vs. Dr. H Nabachandra Singh and others decided on 17.04.2020*** has held that nobody can claim relaxation as a matter of right and the selection criteria is within the domain of the employer. Relevant paragraph of the judgment is as under:-

> "14.The High Court has also noticed that the experience for eligibility notified in the advertisement dated 16.08.2016 was not in conformity with the Medical Council of India Regulations. In reply affidavit filed before the High Court, while denying such allegation, it was pleaded that the qualifications and experience, as notified in the advertisement dated 16.08.2016, was in accordance with the "Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998" (as amended from time to time), framed by the Medical Council of India. It was the specific contention of the respondent authorities that as the RIMS is affiliated to C.A.@S.L.P.(C)Nos.15093-15095 of 2017 etc. Manipur University, the requirement as prescribed by Medical Council of India for Director of affiliated

AARTI SHARMA
2024.07.23 16:44
I attest to the accuracy and
integrity of this document

hospital should be applied. Such plea is not accepted by the High Court on the ground that there is no proper pleading in this regard. A copy of the Regulations titled as, "Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998" (as amended upto 11th March 2017) issued by the Medical Council of India is placed before us. As notified in the said Regulations, the academic qualifications and experience applicable for the post of Director of medical institutions differ from those applicable for the post of Director/Medical Superintendent of affiliated teaching hospital. For the post of Director in a medical institution, apart from the academic qualifications, ten years' experience as Professor/Associate Professor/Reader in a medical college, out of which at least five years should be as Professor in a department, is prescribed. However, for the post of Director/Medical Superintendent of the affiliated teaching hospital the required experience is ten years only. It is the specific case of the respondents that the RIMS is an affiliated teaching hospital. In view of such stand of the respondents it cannot be said that the experience for eligibility notified in the advertisement dated 16.08.2016 is contrary to the Regulations of Medical Council of India. So far as relaxation of upper age limit, as sought by the petitioners in one of the writ petitions is concerned, High Court has directed the competent authority and Executive Council of the Society to consider for providing such relaxation clause. We fail to understand as to how such direction can be C.A.@S.L.P.(C)Nos.15093-15095 of 2017 etc. given by the High Court for providing a relaxation which is not notified in the advertisement. While it is open for the employer to notify such criteria for relaxation when sufficient candidates are not available, at the same time nobody can claim such relaxation as a matter of right. The eligibility criteria will be within the domain of the

AARTI SHARMA
2024.07.23 16:44
I attest to the accuracy and
integrity of this document

employer and no candidate can seek as a matter of right, to provide relaxation clause.

No other argument has been raised.

Keeping in view the facts and circumstances recorded hereinbefore, no ground for interference by this Court is made out and all writ petitions are accordingly dismissed.

Civil miscellaneous application pending, if any, is also disposed of.

A photocopy of this order be placed on the files of connected cases.

July 18, 2024 **(HARSIMRAN SINGH SETHI)**
aarti **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/Nor

AARTI SHARMA
2024.07.23 16:44
I attest to the accuracy and
integrity of this document