

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 206)

(1)CWP No. 7552 of 2017
Date of Decision : 18.01.2024

Inderpreet Kaur

...Petitioner

Versus

State of Haryana and others

...Respondents

(2)CWP No. 9989 of 2017

Kajal Garg and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sourabh Goel, Advocate and
Ms. Shivani Sahni, Advocate for the petitioners
in both cases.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

Mr. Govind Tanwar, Advocate for
Mr. Kanwal Goyal, Advocate for the respondent-HPSC.

Harsimran Singh Sethi J. (Oral)

1. By this common order, two writ petitions, the details of which have been given in the heading, are being decided as both these petitions involve the same question of law on similar facts.

2. For the sake of convenience, the facts are being taken from CWP N o. 7552 of 2017.

3. In the present petition, the prayer of the petitioner is for amending answer key of the written examination qua Question No. 73 and to re-calculate the marks of the candidate concerned and thereafter, make selection to the post of Deputy District Attorney as advertised vide Advertisement No. 2 of 2015, a copy of which has been appended as Annexure P-1.

4. Learned counsel appearing on behalf of the petitioner submits that the petitioner competed for the post of Deputy District Attorney as advertised by the respondents vide Annexure P-1 and appeared in the written examination on 14.01.2017. After the conduct of the said examination, the answer key of the said written examination was published inviting objections and the petitioner had submitted an objection qua Question No. 73. Learned counsel submits that without advertng to the said objection, the result was finalized which is arbitrary and illegal, hence, respondents are under obligation to decide the objection of the petitioner qua Question No. 73 and thereafter, publish the answer key and the consequent result of the written examination.

5. Learned counsel for the respondent-Commission submits that after the written examination when the answer key was published inviting objections, large number of objections were received and keeping in view the objections received in all the questions including Question No. 73 were put to the experts for their opinion and as per the

report of the experts, two questions i.e. Question No. 34 and 85 were found to be not valid keeping in view the answers depicted in the answer key and the same were deleted thereafter, the result of the written examination was published and the selection process was further finalized.

6. There is no replication to the said written statement.
7. I have heard learned counsel for the parties and have gone through the record with their able assistance.
8. The jurisdiction of this Court to evaluate the answer has already been settled by the Hon'ble Supreme Court of India while passing order in Civil Appeal No. 367 of 2017 titled as ***Ran Vijay Singh and others Vs. State of U.P. and others***, decided on 11.12.2017. In the said judgment, the Hon'ble Supreme Court of India has held that after the objections are received and the same are put to the Expert Committee and the report of the Expert Committee is accepted by the Recruiting Agency, there is no further jurisdiction with the Court to deal with the issue as to whether the answer key is correct or not.
9. Hon'ble Supreme Court of India has gone to the extent that even after the Expert Committee report, if there is a dispute/ambiguity qua any question, it will go in favour of the Recruiting Agency and not the candidate. The relevant paragraphs 30 and 31 are 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 reevaluation 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.

“31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse - exclude the suspect or offending question.”

10. In the present petitions, all the questions including Question No. 73 were put before the Expert Committee as per the reply of the

respondents and it was thereafter, only two questions were deleted, which shows that the objections raised by the candidates were considered with open mind. The argument that the Question No. 73 has not been dealt with rightly by the Expert Committee, it cannot be gone into by this Court keeping in view the judgment in ***Ran Vijay Singh (supra)***, hence, no relief can be granted to the petitioner(s) qua the grievance as noticed here-in-before.

11. No ground is made out for any interference by this Court in the present petitions.

12. Dismissed.

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

January 18th, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No