



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 223)

(1) CWP-614-2018 (O&M)
Date of Decision : 10.09.2024

Balwinder Kaur ...Petitioner

Versus

State of Punjab and others ...Respondents

(2) CWP-1175-2018(O&M)

Shivraj Singh and another ...Petitioners

Versus

State of Punjab and another ...Respondents

(3) CWP-5337-2018 (O&M)

Satwinder Kumar and another ...Petitioners

Versus

State of Punjab and another ...Respondents

(4) CWP-745-2018 (O&M)

Harjinder Kaur ...Petitioner

Versus

State of Punjab and another ...Respondents

(5) CWP-1536-2018 (O&M)

CWP-614-2018 (O&M) and
connected matters

2024:PHHC:119716



Hardeep Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

(6)

CWP-15096-2018 (O&M)

Harpreet Kaur Randhawa

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Gagandeep Grewal, Advocate for the petitioner
in CWP-614-2018.

Mr. Sukhdev Raj Kamboj, Advocate for the petitioners
in CWP-1175-2018.

Mr. J.J.S. Uppal, Advocate for the petitioners
in CWP-5337-2018.

Mr. H.C. Arora, Advocate for the petitioners in CWP-745-2018.

Mr. Sunny Singla, Advocate and
Ms. Riti Aggarwal, Advocate for the petitioners
in CWP-1536-2018.

None for the petitioners in CWP-15096-2018.

Mr. Arun Gupta, Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

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



2. For the sake of convenience, the facts are being taken from CWP No. 614 of 2018.

3. In the present petition, the grievance being raised by the petitioner is that petitioner competed for the post of Punjabi Master/Mistress as advertised on 10.09.2017. Petitioner applied for the post in question and appeared in the written examination. After conducting the written examination, the respondent-department uploaded proposed answer key on the website and the objections were sought from the candidates and the petitioner raised objection qua certain answers in the proposed answer key. The grievance of the petitioner is that without looking into the objections of the petitioner as raised qua the proposed answer key, answer key was finalized on 03.01.2018 hence, the answer key which has been uploaded on the basis of which the evaluation of the candidates has been done is arbitrary and illegal and the respondents are liable to be directed to revise the answer key again so as to revise the final result for the post in question.

4. Upon notice of motion, the respondents have filed the reply, wherein the respondents have stated that after the proposed answer key was uploaded, the objections were sought from all the candidates qua the answer key and all the objections which were received, were sent to the Guru Nanak Dev University for consideration and the Experts of the Guru Nanak Dev University looked into the objections and made final recommendations and on the basis of the said recommendations of the Subject Experts the final answer key was issued. Learned counsel for the respondents further submits that the final answer key has been made applicable uniformly on all the



candidates and the final selection has been made accordingly, hence, no grievance can be raised by the petitioner qua the answer key.

5. Learned counsel for the petitioner submits that the recommendations of the Experts, which has been accepted by the respondent-department to form the final answer key is not correct as the same is contrary to the books published relating to the certain questions which can prove that the answer given in the final answer key is not correct.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. It may be noticed that the issue with regard to the revision of the answer key has already attained finality keeping in view the judgment of the Hon'ble Supreme Court of India in Civil Appeal No. 367 of 2017 titled as ***Ran Vijay Singh & Others Vs. State of U.P. & Others***, decided on 11.12.2017, wherein, it has been held that where the answer key has been finalized by the Experts after taking into consideration the objections raised by the candidates, the Court does not have jurisdiction to revisit the issue as the domain of deciding the correct answer is with the Subject Experts. The relevant paragraph No. 30 of this 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 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."

8. Once, the Hon'ble Supreme Court of India has already decided the issue that after the recommendations of the Subject Experts, which have been accepted by the Recruiting Agency, no further jurisdiction lies with the Court to interfere with the opinion of the Experts.

9. Similar issue again came up for consideration before the Hon'ble Supreme Court of India in Civil Appeal No. 7727 of 2019 titled as ***H.P.S.C. Vs. State of Haryana and others***, decided on 30.09.2019, wherein indulgence by the High Court in a similar matter was held to be bad. The relevant paragraph of the 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."

10. Keeping in view the above, this Court will not have jurisdiction to interfere with the opinion of the Experts.

11. Further, with regard to the argument which has been raised by the learned counsel for the petitioner is that even if, after the recommendation of the Experts, there is a gray area with regard to the certain questions, which are being disputed by the petitioner benefit is to be given to the candidate, it may be noticed that keeping in view the findings recorded by the Hon'ble Supreme Court of India in paragraph 30 of the judgment in ***Ran Vijay Singh & Others (supra)***, wherein it has been held that even if gray area exists after the recommendation of the Expert Committee, the benefit of the same will go to the selecting agency and not to the candidate. Learned counsel for the petitioner has not been able to rebut the said finding recorded by the Hon'ble Supreme Court of India.

12. Keeping in view the said finding, even if it is assumed for the sake of argument that there is a gray area after the recommendation of the



Expert Committee, still the Court will have no jurisdiction as the benefit of the same is to go to the Recruiting Agency and not to the petitioner.

- 13. No other argument is raised.
- 14. Keeping in view the above, no ground is made out for any interference by this Court in the present petitions.
- 15. Dismissed.
- 16. Pending miscellaneous application, if any, also stands disposed of.
- 17. A photocopy of this order be placed on the file of connected cases.

September 10, 2024 (HARSIMRAN SINGH SETHI)
kanchan JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No