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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-32195-2019

Date of decision: 23.08.2024

TILAK RAJ

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

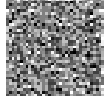
Present:- Mr. Rajesh Arora, Advocate for the petitioner.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

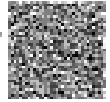
JASGURPREET SINGH PURI, J. (Oral)

1. The present writ petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the impugned letter dated 11.10.2019 (Annexure P-8) passed by respondent No.2 pursuant to order dated 08.07.2019 (Annexure P-7) passed by this Court in CWP-26734-2017, rejecting the claim of the petitioner without considering the revised answer key with a further prayer to direct the respondents to issue appointment letter to the petitioner.

2. Learned counsel for the petitioner submitted that the petitioner applied for the post of Shift Attendant in pursuance of the advertisement (Annexure P-1), which was issued in the year 2016 and he applied under the BCB category. He further submitted that the petitioner took an examination which was in the pattern of multiple choice questions and the answers were to



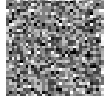
be filled up in the OMR answer sheet. He further submitted that the method adopted by the respondent-Haryana Staff Selection Commission for the purpose of evaluation of the OMR answer sheet was that the OMR answer sheet on which the candidates had marked their answer by way of darkening/filling up of respective option consisted of three separate copies i.e. the original copy, the Commission copy and the candidate's copy, which was handed over to the candidate after completion of the examination along with test booklet. He further submitted that after the filing of the additional affidavit dated 02.08.2024 on behalf of respondent No.2, the controversy in the present case is restricted only to question No.66 and as per the aforesaid additional affidavit filed on behalf of respondent No.2 in pursuance of the order passed by this Court, the petitioner could not have been granted the marks for question No.66 as the petitioner had filled up/darkened circles at two places with regard to question No.66 and therefore, as per the terms and conditions of the answer book, which has been attached at page No.77 of the paper-book, the petitioner was disqualified for getting marks of the aforesaid question No.66. He further submitted that the petitioner was already in the possession of the carbon copy i.e. the candidate's copy, which has been shown to the Court today and as per the aforesaid carbon copy, the petitioner had darkened only one entry i.e. option B with regard to question No.66 and there is no darkening of option D but colour photocopy of the original copy, which has been attached along with the aforesaid additional affidavit filed on behalf of respondent No.2 as Annexure R-2/1 would show that there is darkening at two places in the OMR answer sheet i.e. at option B as well as option D with regard to question No.66.



3. Learned counsel for the petitioner also submitted that the aforesaid original copy was with the respondent-Haryana Staff Selection Commission and not with the petitioner and since it was in the possession of the respondent-Haryana Staff Selection Commission, there is a possibility that its staff may have darkened one of the entries on their own because of the reason that the candidate's copy does not reflect the same. He further submitted that the petitioner is at the margin because even as per the additional affidavit filed on behalf of respondent No.2, he has secured 82 marks in the written examination and 8 marks in the interview, totalling 90 marks and the last selected candidate in the respective category i.e. BCB category has secured 92 marks and the cut off for the waiting list is 91 marks and there are two marks for each question and in case the petitioner is given two more marks for the aforesaid question No.66, then he will be at par with the last selected candidate as his total will also come up to be 92 marks.

4. On the other hand, learned State counsel while referring to the aforesaid additional affidavit dated 02.08.2024 filed on behalf of respondent No.2 submitted that the petitioner gave correct answers for total 41 questions and he was granted 82 marks for the same in the written examination and 8 marks were granted to him for the interview, totalling 90 marks and since the marks of the last selected candidate in the BCB category was 92 marks, the petitioner was not coming in the zone of selection.

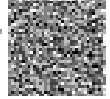
5. Learned State counsel submitted on the basis of aforesaid additional affidavit filed on behalf of respondent No.2 in which the coloured photocopy of the original copy of the OMR answer sheet has been attached as



Annexure R-2/1 that it is crystal clear from the aforesaid OMR answer sheet that qua question No.66, the petitioner had marked at two places i.e. option B and option D. He further submitted that so far as the candidate's copy which has been produced by the learned counsel for the petitioner in the Court today is concerned, in that also option B has been shown to be darkened and so far as option D is concerned, it is although darkened but is very light because it is only a carbon copy. While giving reference to various other entries as well, he submitted that the carbon copy is always lighter and it cannot be similar to that of the original copy and even otherwise also, the carbon copy/candidate's copy which has been shown to the Court today would show that even in option B also, it cannot be said that it is absolutely clear, whereas there is darkening of the same but to a very little extent. He further submitted that as per the terms and conditions which have been attached at page No. 77 of the paper-book vide, as per condition No.14 in case more than one circle is found darkened, then the answer is not to be evaluated and that was the reason as to why the answer given by the petitioner for question No.66 was not evaluated and therefore, he could not have been granted the marks and, therefore the present writ petition is liable to be dismissed.

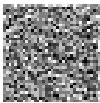
6. I have heard the learned counsels for the parties.

7. Learned counsel for the petitioner has produced the candidate's copy, which is a carbon copy in the Court today for perusal of the Court, which is hereby taken on record as Mark-'X'. The Registry is directed to tag the same at an appropriate place in the paper-book. The issue involved in the present case is that as per the learned counsel for the petitioner, the petitioner could not have



been disqualified for question No.66 on the ground that he has darkened two circles for the aforesaid question i.e. option B and option D because his carbon copy shows that he has not darkened option D but it only shows darkening of option B. However, the case of the learned State counsel is that the petitioner had darkened both the aforesaid options, which is clear from Annexure R-2/1, which is the coloured photocopy of the original copy of the OMR answer sheet. A bare perusal of the Annexure R-2/1 which has been attached along with the aforesaid additional affidavit would show that for question No.66, there has been darkening at option B as well as option D which can be seen clearly with naked eyes. A perusal of the carbon copy/candidate's copy which has been shown to this Court today would show that for question No.66, there is less darkening of option B and there is also less darkening of option D but to a very little extent. The obvious reason of the same would be that the carbon copy/candidate's copy which has been taken on record as Mark-'X' is only a carbon copy and obviously the effect of carbon copy would be lesser as compared to the original copy. As per condition No.14 of the terms and conditions which have been attached at page No.77 of the paper-book, in case more than one circle is darkened by a candidate for a particular question, then the answer will not be evaluated. Condition No.14 of the aforesaid terms and conditions is reproduced as under:-

“14. Each question has four alternative answer of which only one is correct. For each question, darken only one circle, which ever you think is the correct answer on the OMR answer sheet with only **Blue/Black Ball Pen** provided by the Commission. Pencil should not be used for darkening



the circle. If more than one circle is found darkened, that answer will not be evaluated.”

8. Considering the aforesaid facts and circumstances of the present case and a bare perusal of Annexure R-2/1 and aforesaid Mark-‘X’ would show that it cannot be said that the petitioner has not marked more than one circle for a particular question i.e. question No.66 because it is crystal clear that he has marked/darkened both option B and option D.

9. Consequently, the present writ petition being devoid of any merit, is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

23.08.2024
Chetan Thakur

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