

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123 (2 cases) +255 (4 cases)

CWP-25730-2023
Date of Decision : 15.01.2024

ARPIT PASSI AND OTHERS PETITIONERS

V/S

STATE OF PUNJAB AND OTHERS RESPONDENTS

CWP-26831-2023

AMARJIT SINGH PETITIONER

V/S

STATE OF PUNJAB AND OTHERS RESPONDENTS

CWP-21874-2023

HARPREET KAUR AND OTHERS PETITIONERS

V/S

STATE OF PUNJAB AND OTHERS RESPONDENTS

CWP-22202-2023

MANPREET SINGH AND ANR PETITIONERS

V/S

STATE OF PUNJAB AND OTHERS RESPONDENTS

CWP-25730-2023 and all
other connected matters -2- 2024:PHHC:005015

CWP-23040-2023

ANKUSH SHARMA PETITIONER

V/S

STATE OF PUNJAB AND OTHERS RESPONDENTS

CWP-27167-2023

MANBEER SINGH AND OTHERS PETITIONERS

V/S

STATE OF PUNJAB AND OTHERS RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Kanwaljeet Singh, Advocate with
Mr. Satvir Singh, Advocate
for the petitioner in CWP-23040-2023,
CWP-21874-2023, CWP-25730-2023 &
CWP-26831-2023.

Mr. Krishan Kumar Thakur, Advocate
for the petitioners in CWP-27167-2023.

Mr. Hardik Ahluwalia, Advocate
for the petitioners in CWP-22202-2023.

Mr. Inderpreet Singh Kang, AAG, Punjab.
Mr. Deepanjay Sharma, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. On 08.01.2024, the following order was passed :

“1. CWP-21874-2023, CWP-27167-2023, CWP-23040-2023, CWP-22202-2023, CWP-25730-2023 & CWP-26831-2023 are hereby taken up together since

issues involved in all the petitions and prayer sought are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-21874-2023.

2. The petitioners by this writ petition are assailing veracity of answers to different questions. The petitioners are working with respondent-Department as Constable in district cadre. The respondent with intent to grant promotion from the post of Constable to Head Constable conducted written test known as Basic Proficiency Test 2022. The petitioners participated in the selection process. They appeared in the written test. The respondent released answer key. The respondent invited objections from all the candidates with respect to answer keys. The petitioners filed their objections with respect to different questions. The respondent constituted a Committee which considered objections of all the candidates.

3. As per reply filed by respondent, 523 candidates raised objections with respect to 49 questions. The Committee constituted by respondent in its report dated 11.09.2023 found that there are 4 incorrect questions/answers. It was decided to grant 4 marks to all the candidates. Answer key of one question was found incorrect due to clerical mistake which was changed/corrected.

4. Learned counsels for the petitioners submit that respondent has not adverted with all the objections raised by all the petitioners. The respondent has intentionally ignored few objections raised by petitioners.

5. Per contra, learned State counsel submits that Competent Authority has considered objections with respect to all the questions in dispute. He seeks time to produce record prepared by Committee while

considering objections of the petitioners.

6. *Adjourned to 15.01.2024.”*

2. The respondents pursuant to aforesaid order have filed affidavit of Ms. Amneet Kondal, SSP, Khanna-cum-Member BPT-2023 (25%) in CWP-21874-2023, which is taken on record. Registry is directed to tag the same at appropriate place.

3. As per affidavit, the petitioners raised objections with respect to various questions and a committee has adverted with all the objections raised by the petitioners.

4. Faced with this, learned counsel for the petitioner(s) submit that there is grave illegality in answer of question No.67. The said question relates to Indian Penal Code, 1860 and this Court may examine correctness of answer key of aforesaid question.

5. I have heard the arguments of learned counsel for the parties and perused the record.

6. The Supreme Court in *H.P.Public Service Commission vs. Mukesh Thakur and others, 2010 (6) SCC 759* has held that merely because the subject happens to be law, the Court would not arrogate to itself the powers of the Expert Committee.

A similar view has been formed by a Division Bench of this High Court in *CWP No. 698 of 2022, decided on 14.01.2022, titled as Penaaz Dhillon Vs. State of Haryana and others.*

7. The Hon’ble Supreme Court while reiterating and reaffirming its earlier decisions in *U.P.P.S.C and others Vs. Rahul Singh and others, 2018 AIR (Supreme Court) 2861* while adverting with correctness of

answers key has held :

“12. The law is well settled that the onus is on the candidate to not only demonstrate that the key answer is incorrect but also that it is a glaring mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong. The Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answers.”

8. Supreme Court in **Ran Vijay Singh and others Vs. State of U.P and others (2018) 2 SCC 357** while dealing with the question of revaluation or scrutiny of answer sheets has held :

“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 reevaluation 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.”*

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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.*

32. *It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the Courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the Court must consider the internal checks and balances put in place by the examination*

authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination – whether they have passed or not; whether their result will be approved or disapproved by the Court; whether they will get admission in a college or University or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers.”

9. Relying upon plethora of judgments, a Division Bench of this Court vide judgement **dated 01.06.2023** in **CWP No.11695 of 2023** titled as **“Navdeep Kaur vs. State of Punjab and others”** has held that in the absence of allegations against the expert panel or malafide on the part of respondents, the Court cannot re-examine answers key and interfere in the matter.

10. In the wake of law laid down by Hon'ble Supreme Court, Division Benches of this High Court and the fact that respondent constituted a committee which had examined all the objections and there is no allegation of mala fide, this Court does not find it appropriate to invoke its extraordinary jurisdiction. Court cannot invoke jurisdiction just because there is difference of opinion qua answer of a particular question.

11. Dismissed.

15.01.2024
anju

(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>