

LPA-3037-2024 (O&M)

2024.PHHC.162323-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. LPA-3037-2024 (O&M)
Date of Decision: December 03, 2024

Tajinder KumarAppellant

Versus

State of Punjab and others Respondents

2. LPA-3042-2024 (O&M)

Amandeep Kaur Gill and othersAppellants

Versus

State of Punjab and others Respondents

3. LPA-3056-2024 (O&M)

Pawan Kumar and othersAppellants

Versus

State of Punjab and others Respondents

4. LPA-3057-2024 (O&M)

Mohd. NasirAppellant

Versus

State of Punjab and others Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Shiv Kumar, Advocate for the appellants.

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LISA GILL, J.

Delay application(s)

1. For the reasons mentioned in the application as well as arguments addressed, delay of 82 days in filing all the four appeals is condoned.
2. Application(s) are, accordingly, disposed of.

Main appeals

1. This order shall dispose of four appeals i.e. LPA Nos. 3037, 3042, 3056 and 3057 of 2024, which are taken up together for consideration and adjudication at request and with consent of learned counsel for parties, as all these appeals involve a common question for adjudication with common set of facts and arise out of common impugned order dated 05.08.2024 passed by learned Single Bench, whereby writ petitions in question were dismissed.
2. Facts are extracted from LPA-3037-2024 for the sake of convenience. Separate reference to individual facts of each case is not required in view of nature of issue raised for adjudication. All appellants (writ petitioners) filed respective writ petitions for setting aside merit lists of Punjabi Master/Mistress drawn up in selection process, pursuant to advertisement dated 10.09.2017. All appellants had applied for posts in question pursuant to advertisement dated 10.09.2017 inviting applications for 398 posts of Punjabi Master/Mistress. Written examination was taken by appellants on 10.12.2017. Answer key to question paper was published on 12.12.2017. Objections were invited from candidates. Objections as received were forwarded to Guru Nanak Dev University, Amritsar (for short – ‘GNDU’), matter referred to Expert Professor and after receipt and acceptance of his opinion, objections to answer key were decided and final

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answer key prepared, published/uploaded on 03.01.2018. Aggrieved of the result of written examination declared on the basis of revised answer key, various writ petitions were filed with the plea that objections should have been placed for opinion before an independent Expert Committee rather than placing it before another individual Expert and that too an employee of GNDU, Amritsar. 14 writ petitions filed with the same grievance were considered by learned writ Court and finding no merit therein, all the writ petitions were dismissed. It was concluded that once objections had been placed before an Expert, no ground was made out for interference or for re-visiting the said opinion especially in the absence of any allegation of malafides. Aggrieved therefrom, present appeals have been filed.

3. Dr. Sidhu, learned senior counsel for appellants vehemently argues that impugned order dated 05.08.2024 should be set aside as there is no consideration of objections by a truly independent Expert. Learned writ Court, it is argued, has failed to recognize potential bias in the Expert's opinion due to affiliation with GNDU, Amritsar. Prayer addressed by appellants for referring the matter to an independent Expert Body/Committee has been wrongly rejected depriving them of a neutral resolution. Final answer key also reveals that in respect to some of the questions, correct answer was missing or the choice given is ambiguous, therefore, prayer for consideration of matter by totally independent Expert Body should have been accepted. Matter, it is contended, is squarely covered by decision of this High Court in **Jatinder Kumar and ors. versus Haryana Public Service Commission and ors. 2012 SCC online P&H 15657**, but this aspect has been completely ignored by learned writ Court. It is, thus, prayed that these appeals be allowed, impugned

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order dated 05.08.2024 be set aside and writ petitions filed by appellants be allowed as prayed for.

4. We have heard learned counsel for appellants and have perused the paper book but do not find any ground which calls for interference in impugned order dated 05.08.2024.

5. Appellants (writ petitioners) admittedly participated in selection process pursuant to advertisement dated 10.09.2017 for the post of Punjabi Master/Mistress. They took written examination and submitted their objections to answer key which was published. It is a matter of record that GNDU, Amritsar referred all objections submitted by candidates, to an Expert and objections to the answer key were decided in accordance with the Expert opinion. Pursuant thereto, final answer key was prepared, uploaded and result of written examination declared on the basis of said final answer key. It is correctly held by learned writ Court that the issue with regard to potential intervention qua opinion rendered by experts to objections raised by candidates in respect to initial answer key stands settled. Hon'ble the Supreme Court in case of **Ran Vijay Singh and others v. State of U.P. and others (2018) 2 SCC 357** has delineated on the controversy while holding that Court shall presume correctness of answer keys and proceed on that assumption and in the event of doubt, benefit should go to examination authority rather than the candidate. It was further held as under:-

“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

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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."

6. Hon'ble the Supreme Court in **U.P.P.S.C. and others v. Rahul Singh and others, 2018 AIR (Supreme Court) 2861** reiterated that Court should exercise great restraint in such matters and should be reluctant to entertain a plea challenging correctness of answer keys. Learned counsel for appellants is unable to point out any glaring mistake or opinion which is unreasonable, calling for interference in exercise of jurisdiction under Article 226 of Constitution of India.

7. There is also no merit in the argument raised by learned counsel for appellants that request for referring the matter to another Expert

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Committee should be accepted. There is indeed no pleading much less any material on record to indicate that Expert has not given an independent or impartial opinion or is biased in favour of respondent – University/Recruiting authority. Merely because Expert may be of same University by itself, cannot be a reason to doubt his/her independence and impartiality. Routine constitution of such Expert Committee(s) has been deprecated by Hon'ble the Supreme Court in **Haryana Public Service Commission vs. State of Haryana and others, Civil Appeal No. 7727 of 2019** arising out of SLP (C) **No. 30800 of 2018**. Gainful reference in this regard can also be made to decision of this High Court in **Navdeep Kaur vs. State of Punjab** in CWP-11695-2023 decided on 01.06.2023.

8. Learned counsel for appellants is unable to point out any infirmity, illegality or irregularity in impugned order dated 05.08.2024 which calls for interference.

9. No other argument has been addressed.

10. Keeping in view of the facts and circumstances as above, all the four appeals i.e. LPA Nos. 3037, 3042, 3056 and 3057 of 2024 are dismissed with no order as to cost.

11. Pending application(s), if any, stand(s) disposed of as well.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

December 03, 2024
Rts

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No