



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-33785-2024

Date of decision : 05.02.2025

Heena Shehrawat

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL

Present: Dr. Pankaj Nanhera, Advocate,
Mr. Rahul Gautam, Advocate,
Mr. Yogesh Vashista, Advocate, and
Mr. Navneet Sharma, Advocate,
for the petitioner.

Mr. Aditya Pal Singh, AAG, Haryana.

Ms. Munisha Gandhi, Senior Advocate, with
Ms. Shubreet Kaur, Advocate,
for respondent No.3.

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. The petitioner, being an aspirant for appointment to the post of Civil Judge (Jr. Div.), applied pursuant to advertisement dated 07.11.2023 (Annexure P-1) issued by Haryana Public Service Commission. The petitioner belongs to unreserved category and applied as such against 101 (77 vacant + 24 anticipated) unreserved category of said posts.

2. After clearing Preliminary Examination, the petitioner appeared in the Main Written Examinations, which were held from 12.07.2024 to



14.07.2024, wherein qua question No.5 (x) in English Language subject, the petitioner gave the following answer. The question No.5 (x) and its answer, both are reproduced below :

Q.5 Correct the following sentences :

(i) to (ix) xxx xxx xxx xxx

(x) *He is reading the book since morning.*

Ans. *He has been reading the book since morning.*

2.1 The evaluator did not award any marks for the said answer and, therefore, the petitioner was deprived of 2.5 marks, since maximum 25 marks were allotted for ten questions, i.e. (i) to (x), under question No.5.

2.2 Petitioner participated in the viva-voce, whereafter the final result was declared on 16.10.2024 vide Annexure P-7 showing the petitioner's merit ranking at serial No. 95 on the strength of having secured 547.50, as against passing marks of 550, in terms of Clause 13 of advertisement dated 07.11.2023 (Annexure P-1), which is re-produced below for ready reference and convenience :

“13. Provided further that only those candidates shall be eligible to be recruited as Civil Judges/Judicial Magistrates who secure 50% or more marks [read 45% for the SC/ST, BCs, PwBD and ESM category candidates (but not dependent of ESM and EWS)] in aggregate of the marks secured in the main written examination and the viva-voce.”

Thereafter, on 05.12.2024, the petitioner made representation to the selecting agency, i.e. Haryana Public Service Commission, and the High Court, vide Annexures P-17 and P-18, respectively, which did not invoke any response and thereafter, the petitioner approached this Court.



3. On issuance of notice, the High Court – respondent No.3 filed its reply and does not dispute that answer to question No. 5 (x) given by the petitioner is correct. However, the stand taken is that the evaluator did not award any mark for the same, since there was cutting by the petitioner, while writing the said answer, and that re-evaluation is not permissible in terms of Clause 33 of the advertisement, which is re-produced below for ready reference and convenience :

“33. Re-evaluation of answer sheets is not allowed. Only re-checking of answer sheets (i.e. no part of the answer sheets has been left unevaluated or there is no totaling error) on a written request from a candidate can be allowed on payment of fee of Rs. 200/- per answer sheet (in the shape of Indian Postal Orders payable in favour of Secretary, Haryana Public Service Commission, Bays No. 1-10, Block-B, Sector-4, Panchkula) within thirty days from the date of display of marks on the official website of High Court/Commission. No separate request in this regard by any candidate or any other person on their behalf shall be entertained under the RTI Act for re-checking etc.”

4. We have heard learned counsel for the rival parties and also considered the objection raised by learned senior counsel for the High Court that in view of the earlier decision of this Court in the case of **Mukul Dhankhar Vs. State of Haryana and others**, (CWP-34049-2024, decided on 17.01.2025), wherein interference in matter of similar nature was declined on the ground that this Court cannot interfere in the discretion exercised by evaluator, this Court ought not to interfere in the cause raised herein.



4.1 We have gone through the judgment in **Mukul Dhankhar's case** (supra) and find that the factual matrix involved therein reveal that since a descriptive answer in the subject of English Language was being sought to be evaluated by the Court, this Court declined interference by relying upon decisions of Apex Court in **Ran Vijay Singh and others Vs. State of U.P. and others, (2018) 2 SCC 357** and in **Vikesh Kumar Gupta Vs. State of Rajasthan, (2021) 2 SCC 309.**

5. The facts in the present case are at variance to the factual matrix involved in **Mukul Dhankhar's case** (supra). Bare perusal of question No. 5 (x) of subject of English Language, reveals that the candidates only had to correct the grammatical mistake(s) contained in the sentences given, and it is not disputed by learned senior counsel for the High Court that the answer given by the petitioner is the same, as was given by two other candidates, who were in fact awarded 2.5 marks for the same, vide Annexures P-11 and P-12.

6. In the attending facts and circumstances and in view of a fair stand taken by learned senior counsel for the High Court, which we appreciate, this Court is left with no option but to allow this petition and direct the respondents to award marks to the petitioner for the answer given to question No. 5 (x) in the subject of English Language.

7. As regards relief that can be extended to the petitioner, it is seen from the record and as disclosed by learned senior counsel for the High Court that there are six more candidates from Serial Nos. 89 to 94 of select list (vide Annexure P-7), who have though secured more marks than petitioner, but none of them could be appointed for not having secured 50% aggregate marks as per Clause 13 of advertisement (Annexure P-1). More so, none of these six



candidates, except Mukul Dhankhar (whose case has been discussed and distinguished above), has approached this Court.

7.1 Learned senior counsel for the High Court has also informed that there are 13 more vacancies to be filled up, since 101 posts in the unreserved category had been advertised against which only 88 candidates were found to have secured the passing marks of 550.

8. In view of the above, it is obvious that the petitioner can very well be accommodated for appointment. Consequent thereupon, this Court allows this petition with the following direction :

The petitioner, if otherwise suitable and is not facing any other legal disability, is directed to be appointed as Civil Judge (Jr. Div.) by issuance of appropriate appointment letter and by taking all consequential steps, as taken in cases of candidates who are being or have been appointed as Civil Judge (Jr. Div.) qua advertisement No.1/2024 (Annexure P-1) with all consequential benefits.

In the peculiar facts and circumstances of the case, there shall be no order as to cost.

(SHEEL NAGU)
CHIEF JUSTICE

(SUMEET GOEL)
JUDGE

February 05, 2025
narotam

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