



CWP-34049-2024(O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-34049-2024(O&M)

Reserved on: 17.12.2024

Date of decision: 17.01.2025

Mukul Dhankhar

..Petitioner

Versus

State of Haryana and others

..Respondent

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Pankaj Nanhera, Advocate
Mr. Yogesh Vashista, Advocate
for the petitioner

Mr. Deepak Balyan, Addl. AG, Haryana

Mr. Balvinder Sangwan, Advocate for respondent no.2

Mr. Akshay Bhan, Sr. Advocate
with Mr. Amandeep Singh Talwar, Advocate
for respondent no.3

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ANIL KSHETARPAL, JUDGE

1. Introduction and submission made by the learned counsel
representing the rival parties:-

1.1 The petitioner aspires to be a judicial officer, however, he failed to secure minimum passing marks as he fell short by 2 marks. He has filed the present writ petition challenging the correctness of answer given to question no.2 (iv) of English Language subjective examination.

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1.2 As per the recruitment notice, no re-evaluation of answer sheets is permitted. However, learned counsel representing the petitioner while relying upon the judgments passed in **Moonak Garg and others vs. Punjab and Haryana High Court and others** (CWP-331 of 2023 decided in 29.09.2023) and **Radhika Likhi vs. State of Punjab and others** (CWP-4264-2016 decided on 09.06.2017) submitted that the answer sheet is required to be sent to another subject expert for re-evaluation. By referring to the various English dictionaries, learned counsel submits that the answer given to question 2 (iv) was correct and it has been wrongly marked as incorrect.

1.3 Per contra, learned counsel representing the respondents while drawing the attention of the Court to the recruitment notice submits that re-evaluation is not permissible and the Court should not act as a super evaluator while relying upon the judgements in **Parmod Kumar Srivastava vs. Chairman, Bihar Public Service Commission, Patna and others (2004) 6 SCC 714**, **Board of Secondary Education vs. Pravas Ranjan Panda & another (2004)13 SCC 383**.

2. Discussion and Decision:-

2.1 This Court has considered the submissions made by the learned counsel representing the parties and examined answer to question no.2(iv). A subject expert/valuator has adjudged the aforesaid answer as wrong and incorrect. Under question no.2, the candidates were required to make sentences using the words. The petitioner has attempted the question by making sentence which the evaluator has marked incorrect. Admittedly as per the recruitment notice re-valuation of answer sheets is not permitted.



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The Supreme Court in **Ran Vijay Singh and others vs. State of U.P. and others'** (2018) 2 SCC 357 has held as under:-

30.1. *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;*

30.2. *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;*

30.3. *The court should not at all re-evaluate or scrutinise the answer sheets of a candidate—it has no expertise in the matter and academic matters are best left to academics;*

30.4. *The court should presume the correctness of the key answers and proceed on that assumption; and*

30.5. *In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.*

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*



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and larger impact of all this is that public interest suffers.”

2.2 Similarly, the Supreme Court in **Vikesh Kumar Gupta vs. State of Rajasthan (2021) 2 SCC 307** held that the Court must show deference and consideration to the recommendations of experts and must not hastily interfere in such a situation. Consistently, it has been held by the Courts that it is not permissible for the Court in exercise of power of judicial review under Article 226/227 of the Constitution of India to act as super evaluator or examine the matter like an appellate court.

2.3 The petitioner calls upon the Court to hold that the evaluator has erred in marking the question as incorrect. The view taken by the evaluator is a possible and plausible view. The Court should be extremely reluctant to substitute its own views in place of the views/opinion of the subject experts. The Constitutional Court is not expected to take upon itself the task to re-evaluate the answer sheet and the evaluation process of the subject expert is required to be respected.

2.4 Two Division Bench judgments relied upon by the petitioner's counsel are in the peculiar facts of the case. In **Moonak Garg's case(supra)**, the Court came to prima facie conclusion that the purported answer to the question was incorrectly evaluated. Hence, the Court referred the matter to an expert. Similarly, in **Radhika Likhi's case(supra)** the Court again came to the same conclusion that it was a case of no valuation at all. Hence, directed re-evaluation by some other examiner. However, this case does not fall in the aforesaid category whereas the present case falls in the category of cases decided by the Supreme Court in **Ranvijay Singh's**



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and Vikesh Kumar Gupta’s cases (supra). Resultantly, finding no merit, the writ petition is dismissed.

(ANIL KSHETARPAL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

17th.01.2025
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No