

Before Augustine George Masih & Ashok Kumar Verma, JJ.

ISHITA CHADHA—Petitioner

versus

**THE HON'BLE HIGH COURT OF PUNJAB AND HARYANA
AND ANOTHER—Respondents**

CWP No. 681 of 2021

January 13, 2021

Constitution of India, 1950 – Punjab Civil Services (Judicial branch) examination – 2019 – Application/Appointment to the post of Civil Judge (Junior Division), Punjab Civil Services – Absence of relevant rules/instructions/provisions disentitle for revaluation of answer sheets – Petition dismissed.

Held that, the sole question which requires to be answered in the present writ petition, when the facts as narrated above are not in dispute, is that whether the prayer as made by the petitioner for re-evaluation of her answer sheets of English language paper and Criminal Law examination of mains written examination PCS (JB) 2019 can be permitted because on going through the pleadings, we do not find the present case to be one where it would be rechecking of the answer sheets as rechecking is confined to the examination of the answer sheet to find out whether any question has remained unmarked or whether the marks awarded for questions have been compiled and totaled, whereas re-evaluation *inter alia* requires reassessment and re-evaluation of the answers and consequently the marks awarded by the examiner.

(Para 14)

Further held that, present being a case where the petitioner is seeking re-evaluation of the answer sheets, the same cannot be allowed as Clause 11 of the advertisement dated 05.04.2019 does not permit the same.

(Para 15)

Further held that, in the light of the above provisions as also the judgments passed by the Supreme Court on which reliance has been placed by counsel for respondent No.1 i.e. Pramod Kumar Srivastva's case (supra), Secretary, All India Pre-Medical/pre-Dental Entrance Examination Versus Khushboo Srivastva's case (supra) and H.P. Public Service Commission Versus Mukesh Thakur's case (supra), where it has been specifically held that in the absence of the relevant

rules/instructions, where there is no provision, a candidate is not entitled to nor can it be claimed or asked for re-evaluation of answer sheets. Hon'ble Supreme Court in *Pranav Verma's case (supra)* following the above said judgments have reiterated the same position.

(Para 16)

Shvetanshu Goel, Advocate
for the petitioner.

Kanwal Goyal, Advocate
for respondent No.1.

Anu Chatrath, Additional Advocate General, Punjab
for respondent No.2.

AUGUSTINE GEORGE MASIH, J.

(1) This writ petition has been filed by a candidate, who had applied for the post of Civil Judge (Junior Division)-cum-Judicial Magistrate in the Punjab Civil Services (Judicial Branch) Examination-2019 (hereinafter referred to as 'PCS-JB') in pursuance to the advertisement dated 05.04.2019, where out of the 75 posts advertised, 34 were kept for the General Category and remaining 41 were reserved for various other categories. The exam was scheduled to be held in three parts starting with preliminary examination followed by the main written examination and thereafter the viva voce.

(2) The preliminary examination was held on 25.08.2019 and the result was declared on 03.10.2019. Petitioner having qualified, appeared in the main written examination vide Roll No.3498. Result was declared on 19.12.2019 of PCS-JB. Petitioner secured 456 marks out of 950 total marks. Petitioner could not qualify for the interview as she fell 19 marks short of the minimum qualifying marks i.e. 475.

(3) Petitioner did not qualify for the 3rd stage of the examination i.e. viva voce. Interview of the qualified candidates was conducted from 10.02.2020 to 13.02.2020. Final cumulative result of all the candidates qualified and unqualified disclosing the individual marks secured by each candidate in each of the five subjects in PCS (JB) main written examination was declared on 14.02.2020.

(4) Petitioner filed an application under the Right to Information Act, 2005 (hereinafter referred to as 'RTI Act'), on 24.02.2020 seeking copy of her answer sheet in Criminal Law and

Civil Law-I examination, which the petitioner received through registered post on 21.09.2020.

(5) Petitioner moved another application under the RTI Act on 22.09.2020 seeking answer sheet of Civil Law-II, English and Punjabi language examination of PCS (JB) (main written examination), which was supplied to her after completing the requisite formalities including the deposit of the fee on 09.12.2020.

(6) In the meanwhile, about 36 candidates approached the Hon'ble Supreme Court by filing *Writ Petition (Civil) No.143 of 2020* titled as ***Navneet Kaur Dhaliwal and others*** versus ***High Court of Punjab and Haryana*** with a prayer for issuance of a writ of mandamus for directing re-evaluation done of all main written examination of the petitioners, who appeared in the PCS (JB) main examination, by independent expert committee or such re-evaluation of mark sheet on lines as affirmed in ***Centre for Public Interest Litigation*** versus ***Registrar General of High Court, Delhi***¹. Prayer was also made for issuance of a writ of mandamus directing reduction in the qualifying marks of PCS (JB) main examination 2019. The said writ petition was disposed of by the Hon'ble Supreme Court on 17.12.2020 after taking into consideration the report submitted by Justice A.K. Sikri, former Judge of the Supreme Court in respect of Criminal Law paper and Justice Surinder Singh Saron, former Acting Chief Justice of Punjab and Haryana for the Punjabi paper by observing as follows:-

“We are of the view that the ends of justice can be subserved by directing moderation by increase of marks in both the papers to the extent of 5% in each of the papers.

Naturally this benefit will go across the board so that the people who have already selected are not affected in any manner either in seniority or otherwise.

The result be revised in the aforesaid terms and all eligible candidates be called for interview and the process completed.

Needless to say, that the process should be completed as early as possible.

We are following the course of action as followed in the case

¹ 2017 (1) SCC 456

of Pranav Verma & Ors. vs. The Registrar General of the High Court of Punjab & Haryana High Court at Chandigarh & Anr (2019) 17 SCALE 731 and are thus fortified by the judicial view taken by this court already in such matters.

We express our appreciation for the assistance rendered by both Justice Sikri and Justice Saron.

The writ petition is accordingly disposed of.”

(7) In the light of the above order passed by the Hon'ble Supreme Court in *Navneet Kaur Dhaliwal and others'* case (supra), total marks as obtained by the petitioner after adding 17.5 grace marks came to be 473.5. The petitioner was still short by 1.5 marks to qualify for the interview stage in the PCS (JB) 2019.

(8) It is at this stage that the petitioner moved a representation dated 23.12.2020 for re-evaluation/rechecking of the paper of English language and Criminal Law examination of PCS (JB)-2019. Petitioner in the said representation submitted that sufficient marks were not awarded to the correct answers of the English language and the Criminal Law exam. The grievance of the petitioner is that in English language answer sheet, marks have not been granted to the petitioner specifically in question Nos.4 (1), 4 (7), 4 (9) and 3 (4) and question Nos.2 (D) (i) in Criminal Law examination despite the fact that the answers written by the petitioner are correct in nature and genesis. Petitioner had also given the reasons for the grievance with regard to the non-allocation of marks.

(9) When the representation submitted by the petitioner was not considered or decided, petitioner has approached this Court by filing the present writ petition by asserting that she would suffer an irreparable loss and injury if she is not allowed to participate in the interview process, which is likely to commence soon and a direction be issued to the respondents to re-evaluate/recheck the papers of English language and Criminal Law examinations of the petitioner and grant necessary marks as per her entitlement declaring her eligible for appearing in the viva voce of PCS (JB) examination-2019.

(10) Counsel for the petitioner has taken us through the alleged discrepancies, which according to the petitioner have crept in the checking of the answer sheets of English language and Criminal Law examinations. He has also relied upon the judgment of the Supreme Court passed in *Writ Petition (C) No.514 of 2015* titled as *Centre for Public Interest Litigation Versus The Registrar General of High Court*

of Delhi, decided on 26.07.2016, order of this Court in *CWP No.4264 of 2016* titled as *Radhika Likhi* versus *State of Punjab and others*, decided on 19.05.2017 to contend that the prayer made by the petitioner for fresh evaluation of the answer sheets of the petitioner be accepted.

(11) Learned counsel for respondent No.1 has pointed out that the petitioner has not placed on record the complete copy of the advertisement. While referring to Clause 11 of the advertisement, it has been asserted by him that the re-evaluation of the answer sheets is not allowed and only rechecking of the answer sheet on the written request of the candidate addressed to the Secretary, Punjab Public Service Commission, Patiala, is permissible and that too within 30 days of the date of despatch of the mark sheet or display of marks on the website of High Court/Commission. Petitioner, therefore, cannot be granted the benefit of re-evaluation of the answer sheets. As regards the rechecking of the answer sheets is concerned, the counsel has pointed out that all the questions, which have been attempted by the petitioner, have been duly checked. Counsel for respondent No.1 has brought to the notice of the Court that the checking of the papers and uniformity of the answer sheets is maintained so as to avoid difference of method of checking. The marks are awarded as per the special pattern/feature to each of the candidates including petitioner. The expert evaluates a question and its answer, which is uniform for all candidates. The question thus of petitioner having been in any manner prejudiced with regard to the checking of a particular question in a particular subject does not arise. It, therefore, cannot be said that the petitioner has wrongly not been awarded marks for any of the disputed questions and in any case, in the light of the order passed by the Supreme Court in Navneet Kaur Dhaliwal's case (supra), all candidates have already been assigned/granted grace marks as per the said order.

(12) Reliance has also been placed on the judgment of the Supreme Court in *Pramod Kumar Srivastva* versus *Chairman, Bihar Public Service Commission, Patna and others*²; *Civil Appeal No.7024 of 201* titled as *Secretary, All India Pre-Medical/Pre-Dental Entrance Examination, CBSE and others* versus *Khushboo Srivastva and others*, decided on 17.08.2011; *H.P. Public Service Commission* versus *Mukesh Thakur and another*³ and *Writ Petition (Civil) No.565 of 2019* titled as *Pranav Verma and others* versus *Registrar General of Punjab*

² 2004 (6) SCC 714

³ 2010 (6) SCC 759

and Haryana High Court, Chandigarh and another, decided on 13.12.2019, to contend that the re-evaluation of answer books of competitive tests for selection is not permissible, where rules/provision of law do not provide for the same. Referring to the advertisement dated 05.04.2019, he asserts that there is a specific clause disallowing the re-evaluation of the answer sheet, thus, the prayer as made by the petitioner cannot be accepted.

(13) We have considered the submissions made by the counsel for the parties and with their assistance, have gone through the pleadings but do not find ourselves in agreement with the submissions of the counsel for the petitioner.

(14) The sole question which requires to be answered in the present writ petition, when the facts as narrated above are not in dispute, is that whether the prayer as made by the petitioner for re-evaluation of her answer sheets of English language paper and Criminal Law examination of mains written examination PCS (JB) 2019 can be permitted because on going through the pleadings, we do not find the present case to be one where it would be rechecking of the answer sheets as rechecking is confined to the examination of the answer sheet to find out whether any question has remained unmarked or whether the marks awarded for questions have been compiled and totaled, whereas re-evaluation *inter alia* requires reassessment and re-evaluation of the answers and consequently the marks awarded by the examiner.

(15) Present being a case where the petitioner is seeking re-evaluation of the answer sheets, the same cannot be allowed as Clause 11 of the advertisement dated 05.04.2019 does not permit the same. The relevant Clause 11.0 reads as follows:-

“11.0 **FOR MAIN EXAMINATION**

Re-evaluation of answer sheets is not allowed. Only rechecking of answer sheets on a written request from a candidate addressed to the Secretary, Punjab Public Service Commission, Patiala, can be allowed on payment of fee of Rs. 500/- (in the shape of Indian Postal Orders) per answer sheet within thirty days from the date of dispatch of marks sheet or display of marks on the website of High Court/Commission. Since the candidates are being permitted to seek rechecking on payment of fee prescribed by Recruitment to Subordinate Judicial Service Committee, no separate request in this regard by any candidate or any other

person on their behalf shall be entertained under the RTI Act for rechecking.”

(16) In the light of the above provisions as also the judgments passed by the Supreme Court on which reliance has been placed by counsel for respondent No.1 i.e. Pramod Kumar Srivastva's case (supra), Secretary, All India Pre-Medical/pre-Dental Entrance Examination Versus Khushboo Srivastva's case (supra) and H.P. Public Service Commission Versus Mukesh Thakur's case (supra), where it has been specifically held that in the absence of the relevant rules/instructions, where there is no provision, a candidate is not entitled to nor can it be claimed or asked for re-evaluation of answer sheets. Hon'ble Supreme Court in *Pranav Verma's* case (supra) following the above said judgments have reiterated the same position.

(17) Another reason why this Court is not inclined to interfere in the present matter is that the result of the main written examination was declared on 19.12.2019 and the petitioner had applied for answer sheets in Criminal Law and Civil Law-I examinations on 24.02.2020, which was received by the petitioner in September 2020. She did not agitate or make any grievance with regard to the non-granting of the marks at that level and it is, at this belated stage that the petitioner has approached the respondents vide representation dated 23.12.2020.

(18) As regards the judgments on which reliance has been placed by the counsel for the petitioner are concerned, the said judgments have been passed by the Court in the peculiar facts and the circumstances of the case and the issue with regard to there being any provision for re-evaluation or not of the answer sheet was neither raised nor dealt with by the Courts and, therefore, would not be of any help to the petitioner.

(19) In view of the above, finding no merit in the present writ petition, the same stands dismissed.

Payel Mehta