
(1998) 05 P&H CK 0101
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5691 of 1998

Jadgeep Kaur and Another	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 26-05-1998

Acts Referred:

Citation : (1998) 05 P&H CK 0101

Hon'ble Judges : V.S. Aggarwal, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Mr. G.S. Dhaliwal and Mr. S.R. Chaudhri, for the Appellant; Mr. G.S. Grewal, General, Mr. M.C. Berry, DAG and Mr. R. S. Bains, for the Respondent

Judgement

Jawahar Lal Gupta, J.—The two petitioners were candidates for the preliminary competitive examination conducted by the Punjab Public Service Commission for recruitment to the Punjab Civil Service (Executive Branch) and Allied Services. The result was declared on April 18, 1998. The petitioners having failed to qualify the preliminary competitive examination have filed this petition. They alleged that the result as prepared by the Commission is vitiated as merit list for the candidates belonging to the Scheduled Castes has not been separately notified. Consequently, the petitioners have prayed that the Commission be directed to prepare and notify a separate merit list of the candidates belonging to the Scheduled Castes. They also pray that the Commission be restrained from deducting 1/4 mark for every wrong answer.

2. Out of the three respondents, a written statement has been filed only by respondent No. 2, i.e., Punjab Public Service Commission. It has been pointed out that the action has been taken strictly in conformity with the Rules and that it calls for no interference.

3. Learned Counsel for the parties have been heard.

Mr. G. S. Dhaliwal, learned Counsel for the petitioners, has contended that :-

(i) There is no provision in the Rules for negative marking. Thus, the action of the Commission is deducting 1/4 mark for every wrong answer should be quashed;

(ii) Under the provisions of the Rules separate merit list has to be prepared for the candidates belonging to Scheduled Castes. The Commission having failed to do so, the result as declared should be quashed; and

(iii) No written statement having been filed on behalf of the respondent-State of Punjab, the allegations made by the petitioners should be deemed to have been admitted and the selection should be quashed.

4. The claim made on behalf of the petitioners has been controverted by the learned Counsel for the respondents.

5. The competitive examination for recruitment to the Punjab Civil Services (Executive Branch) and Allied Services has to be conducted in accordance with the provisions of the Punjab Civil Services (Executive Branch) (Class I) Rules, 1976 (hereinafter referred as the "Rules"). Rule 12, which deals with the holding of a preliminary competitive examination as also Appendix II are relevant. These provide as under :-

12. (1) A preliminary competitive examination, the regulations of which are contained in Appendix II of these rules, shall be held at any place in the State of Punjab as and when notified by the Government through the Commission for the purpose of selection of candidates for admission to the main competitive examination as specified in Rule 13-A.

(2) Notice of the date fixed for the preliminary competitive examination shall be published in the Punjab Government Gazette.

APPENDIX II

(Rule 12)

Regulations relating to the subjects and standards of the preliminary competitive examination of candidates for the post of Extra Assistant Commissioner.

1. xxx xxx xxx

2. Candidates equal to thirteen time of the total vacancies determined by the Government under sub-rule (1) of Rule 13-A shall qualify for the main competitive examination.

3. A candidate shall specify in his application the optional subject which he desires to take in the preliminary competitive examination.

4. Unless otherwise directed, a candidate shall answer the paper in English medium or Punjabi medium.

5. No candidate shall be eligible to appear in the main competitive examination

unless he obtains 45 per cent marks in aggregate of the two papers with minimum 40 per cent marks in each subject.

6. The marks obtained in the preliminary examination by the candidates who are declared qualified for admission to the main competitive examination will not be counted for determining their final order of merit by the Commission."

6. A perusal of the above provisions would show that the preliminary competitive examination for recruitment to the Punjab Civil Services (Executive Branch) and Allied Services is conducted for the purpose of selecting candidates for admission to the main competitive examination. In the preliminary competitive examination the candidates have to secure minimum 40 per cent marks in each subject and 45 per cent marks in the aggregate of the two papers so as to be eligible for appearing in the main competitive examination. It further shows that the minimum number of candidates who can be permitted to appear in the main competitive examination has to be equal to thirteen times the total number of vacancies. Thus, it appears that only such persons as are successful in securing the prescribed percentage of marks are eligible and the total number of such persons cannot be beyond thirteen times the available vacancies. If more than thirteen times candidates qualify and secure the prescribed percentage of marks, then only those who come within thirteen times and total number of vacancies in order of merit from each category including the Scheduled Castes are eligible to appear in the main competitive examination.

7. What is the position in the present case ?

Admittedly, the total number of vacancies has been mentioned in Annexure P. I with the advertisement which had been issued by the Punjab Public Service Commission. Still further, it has been categorically averred in the written statement filed by respondent No. 2 that "thirteen times candidates in the Scheduled Castes (General Category) to which both the petitioners belong have been admitted to the main competitive examination by the Commission." This fact has not been controverted by the petitioners by filing any replication. Consequently, it is apparent that the members of the Scheduled Castes equal to thirteen times the total number of vacancies which can be reserved for them have secured the prescribed percentage of marks and have been held eligible for appearing in the main competitive examination. That being so, the result as declared by the Commission cannot be said to be in violation of the statutory rules.

8. Learned Counsel for the petitioners has contended that the action of the Commission in deducting 1/4 marks for each wrong answer is contrary to the provisions of the statutory rules. This contention cannot be accepted. The Rules do not lay down the method by which the marks shall be awarded to the candidates. The Rules lay down the board procedure. The Commission, which is a constitutional authority, is entitled to lay down its own procedure and to prescribe the method of assessing the merit of the candidates. If in its wisdom

the Commission considers it appropriate to give credit for every correct answer and to award a penalty for a wrong answer, the action can neither be said to be illegal nor arbitrary. In fact, it provides a reasonable guarantee against guess work or giving answers on mere conjectures. A candidate gets full mark for a correct answer while he loses 1/4 mark for a wrong answer. The action of the Commission does not violate any of the provisions of the Rules. At least none has been referred to by the learned Counsel, for the petitioners. Thus, the contention of the learned Counsel that the action of the Commission was illegal cannot be sustained. It is, consequently, rejected.

9. Mr. Dhaliwal then contended that it was incumbent on the Commission to prepare a separate merit list for the candidates belonging to the category of Scheduled Castes. Learned Counsel relied on a decision of their Lordships of the Supreme Court in *Chattur Singh v. State of Rajasthan* 1997 (1) SC 476. He also referred to the decision of a Division Bench of this Court in *Dr. Lovekesh Kumar & others v. State of Punjab and others* 1998 (1) RSJ 566.

10. The claim made on behalf of the petitioners was controverted by Mr. R. S. Bains, Advocate, who appeared for the Commission. It was pointed out that the Commission had notified the list of the persons who had qualified in the preliminary competitive examination. Learned Counsel has further pointed out that factually the Commission has prepared "the merit list of each category, including the Scheduled Castes" separately. He drew our attention in this behalf to the specific averment made in paragraph 17(b) of the written statement filed by the Commission.

11. Factually, it is not disputed that the Commission has prepared a separate merit list for each of the categories for which posts have been reserved. The averment made in para 17(b) of the written statement has not been controverted by the petitioners by filing any replication. Secondly, even if it were not so done, the Commission has only to prepare a list of qualified candidates in accordance with the provisions of Rule 5 contained in Appendix II to Rule 12. Such amongst them as are able to secure the prescribed percentage of marks are alone eligible to appear in the main competitive examination. The Rules do not provide for grant of any relaxation or lower percentage of marks in the case of candidates belonging to the category of Scheduled Castes or Backward Classes etc. Thus, only such persons who qualify the preliminary competitive examination are eligible to compete in the main competitive examination. If the petitioners have failed to secure the requisite percentage, as is the position in the present case, or if they do not come within thirteen times the total number of vacancies, then their names cannot be included in the list of persons who are eligible to appear in the main competitive examination. It is the admitted position on the record that so far as the category of Scheduled Castes candidates is concerned, their number is equal to thirteen times the vacancies reserved for them. Still further, the petitioners have not been included in the merit list either because they have not secured the prescribed percentage of marks or they are beyond thirteen times

the total number of vacancies reserved for their category. In either event, the action of the Commission cannot be said to be violative of any of the provisions of the Statutory Rules.

12. It also deserves mention that preparation of separate merit list for each category of candidates will be of relevance only at the stage of the notification of the final result. It is at that stage that the appointments to the Service have to be made. It is necessary to notify the position of a candidate in the merit list for the persons belonging to a particular class so that appointments are made according to the preference exercised by the person. At the stage of the preliminary competitive examination, the notification of the inter se merit position is irrelevant. The marks secured by a candidate in the preliminary competitive examination are not at all relevant for determining the final merit. In the present case, separate merit list has been prepared. Thus, the mere fact that separate merit lists have not been notified, is of no consequence.

13. Mr. Bains has categorically stated before us that even at present a separate merit list for Scheduled Castes candidates has been prepared. In fact, there is a categorical averment in this behalf in paragraph 17(b) of the written statement filed by the Commission. Still further, he has stated that so far as the main competitive examination is concerned, merit list shall be separately prepared for the category of Scheduled Castes. The final number of posts is to be determined by the Government. Accordingly, the candidates will be drawn from the various merit lists prepared by the Commission for appointment to different Services.

14. Mr. Dhaliwal, learned Counsel for the petitioners, has referred to a decision of the Supreme Court in *Chattar Singh's case* (supra). This was a case where the Rules did not prescribe the minimum marks which a candidate had to secure so as to become eligible to appear in the main competitive examination. In this situation, it was observed by their Lordships that preparation of separate merit lists was essential. Such is not the position in the present case. Similarly, in *Dr. Lowkesh Kumar's case* (supra), the issue which fell for consideration before a Division Bench of this Court was as to whether or not the Government was competent to issue instructions to the Commission. No such question has been raised in the present case.

15. In view of the above, we find no merit in the contention raised by the learned Counsel for the petitioners that separate merit lists having not been notified, the entire result is vitiated.

16. Lastly, it was contended that since the Government has not Filed any reply, the allegation made in the petition should be deemed to have been admitted. This contention is wholly frivolous. Even if it is assumed that the Government has admitted all the allegations raised in the petition, there is no infirmity either in the merit list or in the action of the respondents in proceeding to admit candidates to the main competitive examination. The only contesting party at this stage is the Punjab Public Service Commission. It has filed a written

statement and answered all the averments made in the petition. Consequently, failure to file a written statement on behalf of the State of Punjab is inconsequential.

No other point has been raised.

In view of the above, we find no merit in this petition. It is, consequently, dismissed. However, there will be no order as to costs.

17. Petition dismissed.