

(2018) 08 P&H CK 0397

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 1235 Of 2018(O&M)

Jogender Singh And Others

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 10-08-2018

Acts Referred:

Citation : (2018) 08 P&H CK 0397

Hon'ble Judges : Krishna Murari, CJ;Arun Palli, J

Bench : Division Bench

Advocate : Sunil K. Nehra

Final Decision : Dismissed

Judgement

This is an intra-court appeal under Clause X of the Letters Patent against an order and judgment dated 09.07.2018, rendered by the learned Single Judge, vide which the writ petition preferred by the appellants has since been dismissed.

The Haryana Public Service Commission advertised 142 posts of Assistant Professors (College Cadre) in Physics. The recruitment test for the said posts was held on 29.01.2017. Whereafter, in compliance with the directions issued by this Court in LPA No.1338 of 2012 (Haryana Public Service Commission v. Jitender Kumar and another), the answer key provided by the paper setter was uploaded on the website of the Commission, and the objections thereto were invited from the candidates, who appeared in the said exam. Upon receipt of all the objections/representations from numerous candidates, the same were sent to be examined by the Committee of Experts on the subject, which comprised of Professors from the reputed Universities. And having examined the veracity of the objections/representations filed by the candidates, the Expert Committee submitted its report, pursuant where to the errors that had crept in were rectified and the result was declared on percentile basis. However, being aggrieved, two of the candidates, namely, Rajesh Kumar and Sunil Rohila, approached this Court vide CWP No.2106 of 2018, and assailed the results of the written examination

declared on 02.01.2018. For most of the questions were alleged to be ambiguous, discrepant, and an answer key that contained incorrect and wrong options was applied. The said writ petition was disposed of by this Court vide order dated 01.02.2018, since the representations submitted by the petitioners therein as regards their grievances were pending, and the learned State counsel as also the counsel for the Commission had submitted that the same shall be dealt with and appropriate orders in accordance with law shall be passed within a week. Resultantly, the said objections/representations were duly analyzed and reviewed by the Expert Committee and the report in this regard was furnished to the Commission. And in terms of the said report in all 14 questions were found to be ambiguous, of which 4 questions were deleted, while answers of 10 questions were revised. Whereas, rest of the objections raised by the candidates qua other questions were found to be meritless. And the result was declared. Accordingly, the representations/objections submitted by the petitioners, in above noted writ petition, were disposed of by the Commission, vide its order dated 05.02.2018. But the appellants (including one of the petitioners in the said petition i.e. Rajesh Kumar) approached this Court vide CWP No.4452 of 2018 assailing the order dated 05.02.2018, for certain questions of booklet series Code 'D' were not rectified and deleted by the Commission. Rather, the precise grievance of the appellants was that as regards 21 questions which were wrong and objected to, no specific opinion was obtained by the Commission from the experts.

And upon a consideration of the matter and material on record, the learned Single Judge concluded that a perusal of experts' opinion, produced by the counsel of the Commission in a sealed cover, showed that all the questions were duly examined by the experts and were found to be in order. It would be apposite at this juncture to refer to the observations recorded in this regard:

"I have no reason to disregard the report of the three fair names of experts, all Professors in an institution beyond the borders of this Court and their opinion on the correctness or otherwise of the questions and answers set by the Haryana Public Service Commission in the Physics paper in an examination for direct recruitment and am of the view that the report submitted in sealed cover should not be made subject matter of dissection by the unsuccessful petitioners or by inviting yet another opinion of a set of experts at their cost as suggested by Mr. R.K. Malik, learned senior counsel appearing for them. No mala fide or bias has been alleged against the experts earlier approached and the present report placed on dais today deserves not to be questioned to maintain sanctity of the selection process."

Further, in reference to the decision of the Supreme Court in UPPSC through its Chairman & another v. Rahul Singh (Civil Appeal No.5838 of 2018), wherein it was held that when there are conflicting views, then the Court must bow down to the opinion of the experts. Judges are not and cannot be experts in all fields and, therefore, they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the experts, reached a conclusion that

academic matters were best left to the experts as they were the best judge of right and wrong answers. Thus, it was observed that Court will not make any fishing inquiry into academic matters at the instance of the petitioning candidates who had failed to qualify in the result of examination or its revision. Rather, the respondent-Commission accepting bona fide errors in the question paper as also the answer keys and finding just and appropriate solutions to fix the problem acted in fairness to all the competitors. We too have examined the records that showed that the Commission had not just got verified only those questions qua which it had received objections/representations but even those qua which no such objections were raised or received.

In conspectus of the above, we are dissuaded to interfere in the matter as also the impugned order and judgment rendered by the learned Single Judge. The appeal being devoid of merit is accordingly dismissed.