
(2015) 05 P&H CK 0106
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 17139 of 2014 (O&M)

Neeraj Rathi and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 04-05-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 1 PLR 766

Hon'ble Judges : Amit Rawal, J

Bench : Single Bench

Advocate : Kiran Pal Singh, for the Appellant; Hitesh Pandit, A.A.G, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Amit Rawal, J.—This order of mine shall dispose of eight writ petitions bearing Nos. 17139, 18284, 18302, 18464, 20416, 24106, 24725 of 2014 and 5587 of 2015, as issue and question raised in the aforementioned writ petitions are same.

2. For the sake of convenience, the facts are being taken from CWP No. 17139 of 2014.

3. The petitioners have approached this Court for quashing the examination held on 03.08.2014 being illegal, arbitrary and violative of terms and conditions of advertisement and instructions dated 20.02.2014 (Annexure P-1), with a further prayer of issuing appropriate direction to the respondents to hold preliminary examination as per (Annexure P-1). It has been submitted that vide advertisement dated 20.02.2014, Haryana Public Service Commission advertised 55 posts of HCS (Executive Branch) and other Allied Services. As per the said advertisement, the closing date for the submission of online applications was 18.03.2014 and closing date for deposit of fee in all branches of State Bank of Patiala was 20.03.2014.

4. Learned counsel for the petitioners in support of their contentions relied upon

Note 2 of Column No. 4, which deals with the Scheme of Examination of the Advertisement. For the sake of brevity, the same is extracted herein below:-

"4. Scheme of Examination:- The examination will be Combined Competitive Examination (CCE) comprising of the following stages;

- i) Preliminary Examination (Objective Type/Multiple Choice) for screening only.
- ii) Main Examination (Conventional/Essay Type)
- iii) Personality Test (Vive-Voce)

Note 1: Candidates fifteen times the number of advertised posts including bracketed candidates, if any, in their respective categories in order of merit of the Preliminary Examination will be admitted to the Main Examination.

Note 2: The question paper will be got printed bilingual i.e. Hindi (being regional language and English except language papers.

Note 3: Candidates who qualify for the Main Examination will have to apply again for which they will be informed separately.

Note 4: Candidates thrice the number of advertised posts including bracketed candidates, if any, in their respective categories in order of merit of Main Examination will be called for Personality Test (Viva- Voce)."

5. Learned counsel for the petitioners argued that the question paper of the Preliminary Examination was required to be printed bilingually i.e. in Hindi also, being regional language, except the language papers, whereas, the Haryana Public Service Commission set the Preliminary Examination Paper in English language only. In fact, there are two papers for the purpose of Preliminary Examination i.e. Paper 1-General Studies of 100 marks and Paper 2- i.e. One optional subject to be chosen by the candidate from the list of 19 subjects.

6. Learned counsel for the petitioners further contended that Paper 1 of General Studies and Paper 2 Optional subject were to be set in both English and Hindi languages as per the advertisement and instructions, therefore, the action of the Haryana Public Service Commission in setting up the paper of General Studies i.e. Paper 1 in only English language is against the Scheme of Examination and Instructions. In order to lend support, they have referred to Annexures P-6 and P-7 attached with miscellaneous application No. 14866 of 2015 to prove that in brochure of 2009 and 2011, Haryana Public Service Commission conducted examination for Haryana Public Service Commission (Executive Branch) and other Allied Services by clearly mentioning therein that Paper 1 and Paper 2 will be of Objective Type (multiple choice questions) and there shall be no negative marking and both the question papers had been set in English only. For the sake of brevity, relevant portion of the brochure 2009 and 2011 is extracted herein below:-

7. "The Preliminary Examination shall comprise of two papers of objective type

(multiple choice questions) and carry a maximum of 200 marks as under:-

List of Optional Subjects for Preliminary Examination:

1. Agriculture
2. Animal Husbandry and Veterinary Science
3. Botany
4. Chemistry
5. Civil Engineering
6. Commerce and Accountancy
7. Economics
8. Electrical Engineering
9. Geography
10. Indian History
11. Law
12. Mathematics
13. Mechanical Engineering
14. Physics
15. Political Science and International Relations
16. Psychology
17. Public Administration
18. Sociology
19. Zoology

Note:

(i) Both the question paper will be of the objective type (multiple choice questions). There shall be no negative marking. Both the questions papers shall be set in English only.

The Preliminary Examination shall comprise of two papers of objective type (multiple choice questions) and carry a maximum of 200 marks as under:-

List of Optional Subjects for Preliminary Examination:

1. Agriculture
2. Animal Husbandry and Veterinary Science
3. Botany

4. Chemistry
5. Civil Engineering
6. Commerce and Accountancy
7. Economics
8. Electrical Engineering
9. Geography
10. Indian History
11. Law
12. Mathematics
13. Mechanical Engineering
14. Physics
15. Political Science and International Relations
16. Psychology
17. Public Administration
18. Sociology
19. Zoology

Note:

(i) Both the question papers will be of the objective type (multiple choice questions). There shall be no negative marking. Both the question papers shall be set in English only."

8. Learned counsel for the petitioners also submitted that when the petitioners appeared in the Preliminary Examination on 03.08.2014, they were surprised to see that both the question papers i.e. of General Studies and Optional Paper were set and supplied only in English language, thus, prayed that action of the Commission is not in accordance with advertisement and instructions, therefore, Commission be directed to conduct and hold the Preliminary Examination in bilingual i.e. English and Hindi.

9. Mr. H.N. Mehtani, learned counsel for the respondent- Haryana Public Service Commission submits that the petitioners are mis-interpreting the advertisement and instructions, as it is clearly mentioned in the advertisement that examination shall be conducted as per the provisions contained in HCS(Ex.Br.) and Other Allied Service Rules, 2008 (as amended from time to time) and HCS (Ex.Br.) and Allied Service Rules and other Services Common/Combined Examination, Act 2002.

10. He has brought attention of this Court to the Note (ii) of the Advertisement which reads thus:-

(ii) The HCS (Ex.Br.) and Allied Services Examination will be conducted in accordance with the provisions contained in HCS (Ex.Br.) and Allied Services Rules, 2008 (as amended from time to time) and HCS (Ex.Br.) and Allied Services and Other Services Common/Combined Examination Act, 2002."

11. He further submitted that total number of candidates to be admitted to the Main Examination shall be fifteen times of the number of advertised vacancies in the various services and only those candidates who were declared by the Commission to have qualified in the Preliminary Examination were eligible for admission to the Main Examination, provided they were otherwise eligible for admission to Main Examination. He further submitted that as per the rules, copy of which has been annexed as R-1/1, in Note (ii) under the head of Preliminary Examination of Rule 11(i) of 2008 Rules, it is mentioned that both the questions papers shall be of Objective Type (multiple choice questions), which shall be set in English only.

For the sake of brevity, Rule 11 is extracted herein below:-

"11. (1) The examination hereinafter called the competitive examination for the post of Haryana Civil Service (Executive Branch), the scheme of which is given below, shall be held at any place in Haryana each year as per Schedule given in Annexure III for the purpose of selection by competition of as many candidates for the Service as the Government may determine:

Scheme of Examination

(Objective type/Multiple choice. There shall be no negative marking)

Note:

(i) Both the question papers shall be of the Objective type (multiple choice questions)

(ii) Both the question papers shall be set in English only.

(iii) The course content of the syllabi for the optional subjects shall be of the degree level (Graduation level).

(iv) Each paper shall be of two hours" duration.

12. It has not been mentioned at Annexure P-2 that both questions papers will be bilingual i.e. in English as well as in Hindi. He further submitted that as per 2008 Rules as well as in the brochure, Annexure P-2, it has been clearly mentioned that the Main Examination comprises of five papers and out of which three (3) are compulsory and two (2) are optional to be opted by the candidates, out of 23 subjects and on perusal of the list of subjects of the Main Examination as given in 2008 Rules and brochure, it is apparent that out of three compulsory papers, one paper is of English (including English Essay), one of Hindi (including

Hindi Essay in Devnagri Script) one paper is of General Studies. Two other papers are of optional subjects out of 23 subjects. The candidates had an option to answer all the question papers in English or Hindi. The candidates had an option to answer all the question papers, except the language papers, in English or Hindi by filling new form for entry in Main Examination while exercising option. He has further drawn attention of this Court to Brochure (Annexure P-2) which is also part of Rule (II), *ibid*, and the relevant portion of the same is extracted herein below:-

(II) Main Written Examination:

Note:

- (i) The question papers for the examination shall be of conventional (essay) type.
- (ii) Each paper shall be of three hours" duration.
- (iii) Candidates shall have the option to answer all the question papers except the language of literature, in English or Hindi."

13. Thus, in essence, he submitted that option of giving answers in Hindi was only in respect of Main Examination not for Preliminary Examination.

14. He further submitted that as per Brochure and the Rules, the candidates, who, did not qualify in Hindi and English language (compulsory papers) with 33% marks each, their answer books in the other compulsory and optional subjects were not be got evaluated, meaning thereby no candidate was to be called for the viva-voce unless he attained at least forty five percent marks in the aggregate of all the written papers and a score of minimum 33% marks each in Hindi and English language and therefore, further submits that no prejudice has been caused to the petitioners in setting of the question papers of the Preliminary Examination in English language as same was in consonance, not only with 2008 Rules but also with the Advertisement (Annexure P-1).

15. In rebuttal, learned counsel for the petitioners relied upon the following judgments to contend that the terms and conditions of the advertisement and brochure are sacrosanct and binding upon the parties:-

- i) *Rahul Prabhakar Vs. Punjab Technical University and Others*, AIR 1998 P&H 18 : (1997) 2 ILR (P&H) 292 : (1997) 117 PLR 13 .
- ii) Appeal (civil) 1313 of 2008 titled as *K.Manjusree vs. State of A.P. and another*, decided on 15.02.2008.
- iii) Civil Writ Petition No. 32895 of 2005 titled as *Dr. M.Vennila vs. Tamil Nadu Public Service Commission* decided on 12.06.2006
- iv) Civil Writ Petition No. 22861 of 2011 titled as *Rashpal Singh vs. State of Punjab and others* decided on 07.08.2013 and
- v) CWP No. 14854 of 2013 titled as *Kapil vs. The Staff Selection Commission*,

North West Region, Chandigarh decided on 15.07.2013.

and also drawn attention of this Court to condition (III) Personality Test of Rule (ii) to contend that candidates shall write their answer in Hindi or English (except in language or literature papers). For the sake of brevity, condition (ii) of is extracted herein below:-

"(III) Personality Test

(ii) No candidate shall be called for the viva-voce test unless he attains at least forty-five per cent marks in the aggregate of all the written Language (compulsory papers). The final selection shall be based on the merit list to be prepared on the basis of total marks obtained by the candidates in the Main Written Examination and Personality. Test i.e out of 675 marks. The candidates shall write their answers in Hindi or English (except in language or literature papers). The papers in General Knowledge and optional subjects unless otherwise directed shall be answered either in Hindi Language or in English Language depending upon the option exercised by a candidate but no candidate shall be permitted to answer any one paper partly in Hindi and partly in English. The candidates shall not be allowed the option to answer these papers in any other medium but the papers except Hindi language or literature papers shall be set in English only."

16. Mr. H.N. Mehtani, learned counsel in support of his submission relied upon the judgment of Hon"ble Division Bench of this Court decided on 16.03.2009 rendered in LPA No. 150 of 2009 in CWP No. 1820 of 2009 titled as Silak Ram and others vs. State of Haryana and others to contend that similar controversy arose with the aforementioned case and the contention of the petitioners therein, which has been raised in the present case has been answered against the petitioners.

17. I have heard learned counsel for the parties and appraised the paper book as well as case law cited by learned counsel for the parties.

18. On going through the conditions of the Advertisement and Brochure as relied upon Note 2 of the Scheme of Examination 4, it leaves no manner of doubt that the condition (ii) of the Note of Rule 11 which provide for setting paper of Preliminary Examination in English, inasmuch, as there are two paper of Preliminary Examination i.e. General Studies and one of compulsory subject and candidate has to opt one subject from the list of 19 subjects prescribed in Appendix I, out of the total 19 subjects, there is no paper which required to be answered in Hindi language or any other language other than the English.

19. For the sake of brevity, Appendix I of Rule II i.e. Plan of Examination is extracted herein below:-

List of Optional subjects for Main (Written Examination):

1. Agriculture

2. Animal Husbandry and Veterinary Science
3. Botany
4. Chemistry
5. Civil Engineering
6. Commerce and Accountancy
7. Economics
8. Electrical Engineering
9. English Literature
10. Geography
11. Hindi Literature (in Devnagri script)
12. Indian History
13. Law
14. Mathematics
15. Mechanical Engineering
16. Physics
17. Political Science and International Relations
18. Psychology
19. Public Administration
20. Punjabi Literature
21. Sociology
22. Sanskrit Literature
23. Zoology

20. However, from the perusal of the list of optional subjects for the Main (Written), Examination, it is evident that the candidate has to opt for two subjects i.e. Hindi Literature (in Devnagri script), Punjabi Literature and Sanskrit Literature, therefore, the candidate while filling up the form has to give option of two subjects as well as option with regard to giving answer in Hindi, except, in Hindi Literature or in other words, Paper in General Knowledge and optional subjects unless otherwise directed, shall be answered either in Hindi or in English language depending upon the option exercised by a candidate but no candidate shall be permitted to answer these papers in any other medium but the papers (except Hindi language or literature paper) shall be set in English only.

21. There is no merit in the submission made by learned counsel for the

petitioners that Note 2 of the Scheme of Examination (supra) dealt with Preliminary Examination, rather it pertains to the Main Examination and therefore, the petitioners have wrongly interpreted Note 2 by alleging that Commission was required to set up the paper for Preliminary Examination in bilingual language i.e. Hindi and English.

22. Judgments cited by learned counsel for the petitioners do not apply to the facts and circumstances of the present case inasmuch as that Commission has caused publication as per 2008 Rules. The judgment would have been applicable had the Commission imposed the different conditions which are not provided in the Rules.

23. The claim of the petitioners is not justified that the Paper 1 should have been set in Hindi language in view of Rules, Advertisement and Instructions. The petitioners have not given their exact qualification. The pleadings qua exact qualification are conspicuously wanting. The reference to sub clause (III) of Rule 11 also deals with conducting of the Main Examination and not with regard to the Preliminary Examination.

24. The advertisement and brochure clearly envisages that the Examination will be conducted in accordance with HCS(Ex.Br.) and Other Allied Service Rules, 2008 (as amended from time to time) The Haryana Public Service Commission has set the paper in accordance with Rules 2008. Language of Rule 11 is plain and simple and leaves no manner of doubt that the option to be exercised by the candidate to answer the question in Hindi and English is in respect of Paper of Main Examination and not of Preliminary Examination.

25. There is no substance in the plea of the petitioners and thus, devoid of merit, therefore, does not warrant any interference under Article 226 of the Constitution of India.

26. Accordingly, the writ petitions are dismissed.