
(2020) 06 SHI CK 0250
In the High Court Of Himachal Pradesh
Case No : CWPOA No. 397 Of 2019

Pankaj Kumar Kanoongo

APPELLANT

Vs

State Of H.P. And Another

RESPONDENT

Date of Decision : 22-06-2020

Acts Referred:

Citation : (2020) 06 SHI CK 0250

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Bhuvnesh Sharma, Somesh Raj, Dinesh Thakur, Sanjeev Sood, Divya Sood

Final Decision : Disposed Of

Judgement

Ajay Mohan Goel, J

1. By way of this petition, the petitioner has prayed for the following substantive reliefs:-

"In view of the submissions made herein above, it is most humbly and respectfully prayed that present Civil Writ Petition may kindly be allowed and following reliefs may kindly be granted in favour of the petitioner:-

a. That the respondent be directed to give the petitioner four marks and declare the petitioner as successful candidates for lecturer (school cadre) biology, and issue him the appointment letter.

b. That the examination conducted by the Himachal Pradesh Subordinate Service Selection Board Hamirpur may be quashed and the respondent be directed to conduct fresh examination.

c. That the respondent may be directed to correct the answer key and check the answer sheets accordingly.

d. That Hon'ble Court may kindly pass any other order which it deems fit in the

interest of justice and fair play."

2. Brief facts necessary for the adjudication of the present petition are that a process stood initiated by the respondents to fill various posts of Lecturers (School Cadre) vide advertisement dated 19th December, 2008 (Annexure P/1). This included the posts of Lecturers in the subject of Biology. Petitioner being eligible, duly participated in the written test which was held on 07.02.2010, under the Roll No. 14096, followed by interview, under unreserved category. Unfortunately, the petitioner was not successful in the selection process, which was so undertaken by the respondents. Though the last candidate who was selected for the post of Lecturer Biology (School Cadre) under the unreserved category had obtained 159 marks yet the petitioner could not succeed because his marks were one less than the last candidate selected.

3. Petitioner filed this writ petition feeling aggrieved by the fact that the key answers pertaining to certain questions in booklet Annexure P- 6, i.e. Question No. 53, 121, 122, 139 and 198, were incorrect. As per the petitioner, the relevant extract of the text books which he has appended alongwith the writ petition as also the rejoinder which has been filed to the reply of the respondents clearly demonstrates that the key answers of the respondents are incorrect, and thus, as per the petitioner it is on account of said omission on the part of the respondents that he has been denied the post of Lecturer (School Cadre) in the subject of Biology.

4. A perusal of the reply filed to the writ petition inter alia demonstrates that in the selection process, total 1733 candidates participated. From amongst them, 310 were successful and shortlisted for the purposes of personal interview. This also included the petitioner. However, on the strength of the marks which the petitioner obtained in the written test as well as interview, as there were candidates more meritorious than the petitioner, appointment was offered to them. As per the respondents, no candidate except the petitioner had raised any issue over the correctness of the key answers. It is further the stand of the respondents in the reply filed to the writ petition that as far as the key answer given to Question No. 53 is concerned, the same was correct as per the explanation which has been given in the reply. Similarly, Question No. 121 stood deleted. The key answers of Question No. 122, 139 and 198 were also correct as was evident from the explanation which has been given by the respondent in the reply.

5. I have heard learned Counsel for the parties and also gone through the pleadings as well as documents appended with the writ petitions.

6. First of all, this Court cannot loose sight of the fact that the petition was filed somewhere in the year 2010 and at the time of admission of the petition, this Court in its wisdom deemed not to grant any interim relief in favour of the petitioner. As a result thereof, the posts in issue have been filled, as has been pointed out by learned Additional Advocate General, and the incumbents, who

stood appointed are serving against the posts in issue for almost a decade now.

7. Be that as it may, even otherwise, it is settled law that the Court is not an expert as far as evaluation etc. of the key answers is concerned, and in a matter, where the judicial conscious of the Court is satisfied that there may be some discrepancy in the key answers, then, the course which usually is adopted by the Court is to refer the matter to the experts so that their expert view is sought, and thereafter, the Court can act thereupon. However, coming to the facts of this case, in my considered view, no fruitful purpose will be served in case this exercise is undertaken by the Court at this stage. I say so for the reason that as I have already mentioned above there are candidates who stand selected on the basis of impugned selection process and they are serving as such for almost a decade now. In terms of the reply which has been filed to the writ petition by the State, total number of candidates who appeared in the selection process were 1733. Meaning thereby that in case, at this stage, any re-evaluation of the key answers is ordered, it is not going to affect 1, 2 or 10 candidates but the answer sheets of 1733 candidates will have to be re-evaluated. This shall open a Pandora Box, which in my considered view, shall not be a prudent thing in the peculiar facts of this case wherein the petition unfortunately could not be decided for almost a decade. Having said so, as it is not a case where there has been delay on the part of the petitioner in approaching the Court, this Court deems it appropriate to close this petition, however, with liberty to the petitioner to approach the appropriate Court of law for damages, if so advised, on the basis of pleas which have been taken by the petitioner in the present writ petition if he is able to substantiate them. As far as the issue of limitation in filing the suit for damages is concerned, but obvious, the period which the petitioner has spent while pursuing this petition before this Court shall be dealt with as per law, in case the petitioner does approaches the appropriate Court.

The petition stands disposed of in above terms, so also pending miscellaneous application(s), if any.