
(2012) 03 SHI CK 0171
In the High Court Of Himachal Pradesh
Case No : CWP No. 11734 of 2011

Subhash Chauhan and Others

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 01-03-2012

Acts Referred:

Citation : (2012) 03 SHI CK 0171

Hon'ble Judges : Kurian Joseph, J; Dharam Chand Chaudhary, J

Bench : Division Bench

Judgement

Justice Kurian Joseph, C.J.—The petitioners are candidates who appeared for the HAS Preliminary Examination conducted by the H.P. Public Service Commission. Last year also some of the candidates who appeared in the examination had approached this Court leading to the judgment dated 3.12.2010 in CWP No. 6130 of 2010 and connected cases. In view of the observations made by us in the said judgment, the Public Service Commission has done a commendable job by limiting the examination to two papers namely General Studies and Aptitude Test. In the said judgment this Court also directed the Commission to publish the key answers. On publication of the key answers, objections were filed and those objections were referred to another group of experts. It is seen from the record that despite best efforts taken by the Commission to have question papers set up by the experts in the subjects, there appears to be a few mistakes. In the process four questions from the General Studies and four questions from the Aptitude Test have been deleted and answer sheets have been valued out of 96 only. As far as General Studies is concerned, the key answerers have been revised in six questions in addition to the four already cancelled and in the Aptitude Test two answers have been varied in addition to the cancellation of four questions. Though the learned counsel appearing for the Commission placing reliance on H.P. Public Service Commission Vs. Mukesh Thakur and Another, submits that the Court may not attempt a revaluation in the absence of enabling provisions in that regard, learned counsel appearing for the petitioner(s) pointed out that when the answers of the questions are demonstrably wrong, the Court

in the interest of justice should interfere and pass appropriate orders. It is also pointed out that the petitioners who attempted the questions which are either scrapped or varied should be given due credit since they have spent time on such questions and that in any case their stand is supported by the original paper setters. Some of the learned counsel on the other hand submit that they should be given credit in terms of the revised answer key since the correct answers have been given by the second set of experts. Having regard to the various contentions raised by the learned counsel on both sides some of which we have referred to above, we are of the view that without doing any violation to the well settled principles, the interest of justice can be secured. Having gone through the records we find that the Professors who set the question papers are experts in the respective fields. Equally, the Professors to whom the objections were referred are also experts in the respective fields. The Professors to whom the objections were referred have given reasons for either deleting the question or for varying the answers. Probably in case the objections were referred to the Professors who originally set the question papers, they would have stuck to their views since in few cases it is possible to have two views on the very same fact and both views could be equally correct. It would be a matter of prudence and future guidance that the Commission issues instruction to the experts to avoid questions which can possibly have more than one answer. The element of subjectivity should be avoided. It would also be appropriate that the Commission clarifies in future that in the event of any doubt reference would be only to some prescribed and authentic text books, to the extent possible. To meet the ends of justice these writ petitions are disposed of as follows:-

i). Petitioners who have attempted the questions which have been scrapped either from the General Studies or Aptitude Test should be given marks as if they have answered the questions correctly.

ii). As far as the answers which have been varied are concerned (six in General Studies and two in Aptitude Test) all the petitioners who have given the answers as per the original key should also be given marks as if they have answered the questions correctly. Needless to say that the petitioners who have answered the questions as per the varied answers will also be given the marks.

iii) Since there are more than twelve thousand candidates who appeared in the examination, we make it clear that this exercise be limited to the petitioners only and in the case of those candidates whom the Commission has already cleared, they shall not be affected since they have been in any case cleared by the Commission as eligible to participate in the final examination.

iv) In the process as above, the petitioners who become qualified will be issued roll numbers on or before 8.3.2012.

2. We further make it clear that we have not considered the matter on merits and these directions are issued only in view of the peculiar facts and circumstances of these cases and these are not meant to be taken as a

precedent.

All the writ petitions stand disposed of, so also the pending application(s), if any.
Authenticated copy to the parties.