

LPA-1214-2023 (O&M)

2025:PHHC:028391-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA-1214-2023 (O&M)

Date of decision: 27.02.2025

**THE SECRETARY, SUBORDINATE SERVICES SELECTION BOARD,
PUNJAB**

..... Appellant(s)

Versus

NISHA AND ANOTHER

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Rohit Ahuja, D.A.G., Punjab
counsel for appellant.

Mr. Rajeshwar Thakur, Advocate
for respondent no.1.

LISA GILL, J.

CM-3121-LPA-2023

CM-3120-LPA-2023

Heard.

There is a delay of 20 days in re-filing and 142 days in filing of this appeal.

For reasons mentioned in the applications and arguments addressed, delay of 20 days in re-filing and 142 days in filing of this appeal is condoned.

Applications are disposed of accordingly.

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1. Prayer in this appeal is for setting aside order dated 13.01.2023, passed by learned Single Bench whereby CWP-26545-2022, filed by respondent no.1-writ petitioner has been allowed.

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2. Brief facts necessary for adjudication of this appeal are that writ petitioner filed CWP-26545-2022 seeking a direction to respondents to re-conduct the written examination (multiple choice questions) which was conducted pursuant to advertisement dated 12.06.2021, for appointment to the post of Supervisor in the Department of Directorate of Social Security, Women and Child Development, Punjab. It is noted by learned Single Bench that there was a misprint in the booklet of Set-B of question paper and the same was not complete. It is the case of writ petitioner that due to misprint in booklet of Set-B, she could not attempt the paper properly. Despite request to the Invigilator, she was not given another copy, due to which she lost precious examination time. Learned Single Bench noted that as per learned counsel representing State of Punjab, process was still ongoing. It was thus directed that examination for writ petitioner be re-conducted for the post of Supervisor within a period of one month.

3. Review application seeking recall of order dated 13.01.2023 was filed by the State with specific averments that a detailed report dated 08.02.2023 had been obtained from the Examination Conducting Agency alongwith report of Invigilator who was on duty in the room in the examination centre in question. As per the said report, replacement of question booklet was not sought by writ petitioner within 10 minutes of the start of examination, however, at her request, she was given relevant two pages of another question booklet of the same series belonging to an absentee candidate and was subsequently collected from her after she had attempted misprinted questions. It is further stated that it would not be possible to conduct separate examination of an individual candidate. Furthermore, writ petitioner had attempted 98 out of 100 questions and secured 46.7 marks in the written examination which shows that no prejudice whatsoever had been caused to her. The last selected candidate in the general category to which appellant belongs has secured 65 marks. Answer key in question was uploaded on 28.09.2022. Objections qua twelve

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questions were received from different candidates. No objection was filed by writ petitioner. Answer key of one question was changed with there being no change of answer key qua eight questions. Three marks were given to all candidates in respect to remaining questions. Writ petitioner was also awarded said three marks. Review application No.125/2023 for recalling decision dated 13.01.2023 was dismissed by learned Single Bench on 17.04.2023 while observing that none of these facts were pleaded at the time of decision of writ petition on 13.01.2023. Aggrieved therefrom present appeal has been filed.

4. Notice was issued on 31.08.2023 in this appeal with operation of impugned decision being stayed.

5. Learned counsel for appellant-State has reiterated the stand of the Department as has been narrated in the forgoing paras and it is prayed that present appeal be allowed, impugned order dated 13.01.2023 be set aside and writ petition dismissed throughout.

6. Learned counsel for respondent no.1-writ petitioner, however, supports the impugned decision dated 13.01.2023 while submitting that learned Single Bench had duly considered the stand of the Department that process of selection was ongoing, therefore, there is absolutely no infirmity in direction for re-conducting the examination for petitioner. It is thus prayed that present appeal be allowed.

7. We have heard learned counsel for the parties at length and have perused the file carefully.

8. At this stage, it is to be noticed that out of 100 questions in the written examination, writ petitioner has admittedly attempted all except 02. 07 out of 10 questions attempted by her are correct. She has secured 46.7 marks whereas last selected candidate in General category had secured 65 marks. There are 840 candidates above writ petitioner in merit as per result of written examination. Even if alternate prayer as has been duly addressed in the writ petition seeking extra marks is

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to be allowed and 11 marks are also awarded to writ petitioner, she would not even be near the cut of 65% marks. Holding of a written examination for one candidate is imminently not possible or even called for in view of clear and cogent material on record.

9. Reference by learned counsel for petitioner to the contention of counsel representing the State as recorded in impugned order dated 13.01.2023 that selection was still ongoing process, is clearly not an indication of a consensus on the part of State to re-conduct the examination for a single candidate, as is sought to be urged. In the given facts and circumstances, order dated 13.01.2023 is unsustainable and moreover, in view of the marks secured by writ petitioner and the cut of marks secured by the last selected candidate in General category, it is considered just and expedient to set aside order dated 13.01.2023. Ordered accordingly.

10. No other argument has been addressed.

11. Keeping in view the facts and circumstances as above, this appeal is allowed and writ petition filed by respondent no.1 is consequently dismissed.

12. Pending miscellaneous application(s), if any, stand(s) disposed of accordingly.

(LISA GILL)
JUDGE

(ALOK JAIN)
JUDGE

27.02.2025

Sunil

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No