IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-4826-2025 (O&M)

Date of decision: 20.02.2025

Jasmine ....Petitioner

V/s

State of Haryana and others ....Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Pankaj Nanhera, Advocate with
Mr. Rahul Gautam, Advocate and
Mr. Navneet Sharma, Advocate for the petitioner.

Mr. Deepak Balyan, Addl. A.G. Haryana.

Ms. Savreet Brar, Advocate for
Mr. Balvinder Sangwan, Advocate for respondent No.2-HPSC.

Mr. Sanjay Kaushal, Senior Advocate with
Mr. Kanwal Goyal, Advocate and
Ms. Harshita Sharma, Advocate
for the respondent No.3- High Court.

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SUMEET GOEL, JUDGE

1. The petition in hand filed under Articles 226/227 of the Constitution of India, in essence, is aimed at quashing of the final result dated 16.10.2024 of Haryana Civil Service (Judicial Branch) examination to the extent that it declares the petitioner as an unsuccessful candidate and for issuance of consequential direction(s) for carrying out the requisite re-evaluation of one of the questions answered by the petitioner and awarding of requisite marks for same & for consequential appointment of the petitioner to the post of Civil Judge-cum-Judicial Magistrate under the Haryana Civil Service (Judicial) Examination 2023-24. The edifice of the

relief(s) sought for by the petitioner is that her answer to one of the questions has not been correctly evaluated on account of which no marks were awarded to her for the said question.

2. Shorn of non-essential details, the relevant factual matrix of the *lis* in hand is adumbrated, thus:

(i) Aspiring to be a Judicial Officer the petitioner applied in response to the advertisement dated 07.11.2023 (*hereinafter referred to as '07.11.2023 advertisement'*) issued by the Haryana Public Service Commission (*hereinafter to be referred as 'HPSC'*) for appointment as 'Civil Judge-cum-Judicial Magistrate under the Haryana Civil Service (Judicial) Examination 2023-24'.

(ii) *Clause 33 of the Advertisement* in question reads thus:

> *"33. Re-evaluation of answer sheets is not allowed. Only re-checking of answer sheets (i.e. no part of the answer sheets has been left unevaluated or there is no totaling error) on a written request from a candidate can be allowed on payment of fee of Rs.200/- per answer sheet (in the shape of Indian Postal Orders Payable in favour of Secretary, Haryana Public Service Commission, Bays No. 1-10, Block-B, Sector-4, Panchkula) within thirty days from the date of display of marks on the official website of High Court/Commission. No separate request in this regard by any candidate or any other person on their behalf shall be entertained under the RTI Act for re-checking etc."*

(iii) The final result was announced on 16.10.2024 wherein the petitioner is stated to have secured a total of 549.10 marks but could not get selected as the cut-off marks for the final merit list was 550 marks.

(iv) The petitioner sought for copy of her answer-sheet, through RTI, and on perusal of the same she is stated to have found that one of the questions answered by her was incorrectly evaluated and she was awarded

zero marks for the same. The said question i.e. question No.5(ix) (*hereinafter referred to as* '*question in issue')* in the English examination reads, thus:-

"Q5. Correct the following sentences:

i)	*xxx*	*xxx*	*xxx*
ii)	*xxx*	*xxx*	*xxx*
iii)	*xxx*	*xxx*	*xxx*
iv)	*xxx*	*xxx*	*xxx*
v)	*xxx*	*xxx*	*xxx*
vi)	*xxx*	*xxx*	*xxx*
vii)	*xxx*	*xxx*	*xxx*
viii)	*xxx*	*xxx*	*xxx*
ix)	*Although he is so short, but he plays basketball*		
x)	*xxx*	*xxx*	*xxx"*

The answer submitted by the petitioner (*hereinafter referred to as 'answer in issue')* to this question reads, thus:

"(ix) Although he is short, he plays basketball."

(v) The petitioner has accordingly petitioned this Court on the premise that the above evaluation is incorrect and hence she ought to have been accorded marks for the same.

3. Learned counsel appearing for the petitioner; led by Sh. Pankaj Nanhera, Advocate; have argued that a perusal of the answer given by the petitioner to the question, for which no marks were awarded to her, reveals that it is in fact a correct one. Learned counsel have further submitted that the petitioner had sought independent opinion from various esteemed Professors/Teachers as also English language experts and it has been confirmed to her that her answer was not only grammatically correct but also aligned with Standard English. It has, thus, been iterated by the learned counsel that the said evaluation of the answer given by the petitioner has resulted in iniquitous effect upon her which violates Articles 14, 19 and 21 of the Constitution of India. Learned counsel have thus urged that, in any

case, the answer given by the petitioner ought to be re-evaluated by an independent examiner/expert and requisite marks ought to be awarded to her accordingly. It has been further iterated by the learned counsel that she has already secured 549.10 marks whereas the cut-off marks for the selection were 550 marks & hence awarding of merely 0.90 more marks would make the petitioner a successful candidate. On the strength of these submissions, the grant of writ petition in hand is entreated for.

4. Learned counsel for the respondents; led by Shri Sanjay Kaushal, Senior Advocate (for respondent No.3 – Punjab and Haryana High Court at Chandigarh); have urged that there is no provision for re-evaluation and, thus, the petition deserves to be rejected on this score alone. It has been further iterated on behalf of the respondents that the answer has been evaluated by an expert, having requisite qualifications, and hence the plea(s) put forward by the petitioner *sans* merits. On strength of these submissions, dismissal of the instant petition has been canvassed for.

5. We have heard learned counsel for the rival parties and have perused the available record.

Prime Issue

6. The prime question, which arises for determination in the writ petition in hand is, as to whether the answer stated by the petitioner to the *question in issue* deserves to be got re-evaluated in the facts and circumstances of the present case & if so, what consequential steps are mandated for the same.

The seminal legal issue, that arises for cogitation is, the scope of judicial review for re-evaluation of an answer to a subjective/descriptive type of question in an examination.

Relevant Statutory Provision

7. Article 226 of the Constitution of India (hereinafter referred to as '*Article 226*') reads, thus:

> *"**226. Power of High Courts to issue certain writs** — (1) Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.*
>
> *(2) xxx xxx xxx*
>
> *(3) xxx xxx xxx*
>
> *(4) xxx xxx xxx"*

Relevant case law

8. The precedent(s), *apropos* to the matter(s) in issue, are as follows:

(i). The Hon'ble Supreme Court in a judgment titled as ***Ran Vijay Singh and others Vs. State of U.P. and others, (2018) 2 SCC 357,*** while relying upon a Three Judge Bench judgment of the Hon'ble Supreme Court in case of ***Pramod Kumar Srivastava v. Chairman, Bihar Public Service Commission: 2004(6) SCC 714*** and another Three Judge Bench judgment of the Hon'ble Supreme Court in ***Board of Secondary Education vs. Pravas Ranjan Panda, (2004) 13 SCC 383,*** has held, thus:

> *"30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:*

(i) If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it;

(ii) If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the Court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any "inferential process of reasoning or by a process of rationalisation" and only in rare or exceptional cases that a material error has been committed;

(iii) The Court should not at all re-evaluate or scrutinize the answer sheets of a candidate – it has no expertise in the matter and academic matters are best left to academics;

(iv) The Court should presume the correctness of the key answers and proceed on that assumption; and

(v) In the event of a doubt, the benefit should go to the examination authority rather than to the candidate."

(ii) The Hon'ble Supreme Court in a three Judge Bench judgment titled as ***Vikesh Kumar Gupta & Anr. Vs. The State of Rajasthan & Ors. 2021(2) SCC 309,*** has held thus:

"11. Though re-evaluation can be directed if rules permit, this Court has deprecated the practice of re- evaluation and scrutiny of the questions by the courts which lack expertise in academic matters. It is not permissible for the High Court to examine the question papers and answer sheets itself, particularly when the Commission has assessed the inter se merit of the candidates ***(Himachal Pradesh Public Service Commission v. Mukesh Thakur & Anr. (2010) 6 SCC 759)*** *Courts have to show deference and consideration to the recommendation of the Expert Committee who have the expertise to evaluate and make recommendations. xxxxxxxxxxxxxxxxxxxx*

xxx	*xxx*	*xxx*	*xxx*
xxx	*xxx*	*xxx*	*xxx*

13. A perusal of the above judgments would make it clear that courts should be very slow in interfering with expert opinion in academic matters. In any event, assessment of the questions by the courts itself to arrive at correct answers is not permissible. The delay in finalization of

appointments to public posts is mainly caused due to pendency of cases challenging selections pending in courts for a long period of time. The cascading effect of delay in appointments is the continuance of those appointed on temporary basis and their claims for regularization. The other consequence resulting from delayed appointments to public posts is the serious damage caused to administration due to lack of sufficient personnel."

(iii) A Division Bench of this Court in CWP-4264-2016 titled as ***Radhika Likhi vs. State of Punjab and others : Neutral Cittation No.: = 2017: PHHC:050481-DB,*** has held as under:

"4) We have perused the original Answer Sheet of the Petitioner. We are also conscious that it is not for a Writ Court to act as a super-evaluator when it comes to evaluation of subjective answers in an examination, which job is best left to the Experts. Consequently, we are not inclined to interfere at least in relation to the evaluation done in respect of Question No.2(B) (viii). However, in relation to Question No.2(B) (x), we find that the one sentence answer as a whole was treated as wrong which ex facie appears to be incorrect even from the stand point of ordinary usage of the English Language. Here in our view, it is not a case of 'subjective evaluation as such' but 'no evaluation' at all considering that an apparently correct answer was summarily declared as 'wrong' with a 'zero' award, without any explanation. Needless to mention that an appropriate evaluation in respect of this particular Question certainly affects the vital fate of the Writ Petitioner, since just one mark in its evaluation would make her eligible for the next phase of the selection process.

5) We therefore, allow this Writ Petition with a direction upon the Respondents to have the Question No.2(B) (x) as attempted by the Writ Petitioner to be evaluated again by some other examiner, who shall record his special reasons in relation to whatever marks he finds that the candidate is, or is not entitled to get."

Analysis (re law)

9. The Hon'ble Supreme Court in the case of ***Ran Vijay Singh*** (supra) and ***Vikesh Kumar Gupta*** (supra) has enunciated, *in extenso,* the

principles pertaining to the scope of judicial review in a plea for re-evaluation of any answer(s) given by an unsuccessful candidate to a subjective/descriptive type of question. The quintessential principle, which is unequivocally forthcoming from the *ratio decidendi* of the above case law(s) is that the writ Court's jurisdiction to interfere in writ petitions seeking re-evaluation of answers is exceedingly restricted, and such intervention must be exercised with utmost caution and circumspection. This principle would appertain, even more intently and earnestly, in the case of a purely descriptive type of question. The difference between an objective type question and a subjective/descriptive type of question, to say by way of a simile, is as distinct and sharp as the difference between chalk and cheese. A subjective/descriptive type of question, in stark contrast to a multiple choice/objective type of question, requires a candidate to posit an answer based on his/her knowledge and skills. No touchstone method can be effectively applied, to any answer of such a question, as a fixed yardstick is impossible herein. The evaluation by an expert/examiner, in context of a subjective/descriptive type of question, ought to be assumed to be correct, unless it is proven to be fundamentally wrong and proof thereof, ought not to be by way of an inferential process of reading or by a process of rationalization. In essence, subjective/descriptive questions differ fundamentally from objective/multiple choice questions, as they necessitate responses/answers based on the candidate's individual comprehension and analytical ability, rendering them inherently variable. In such cases, no absolute or objective yardstick or touchstone method can be effectively applied to gauge correctness. Consequently, the evaluation of

subjective/descriptive answers by the examiner must be regarded as presumptively accurate, unless there is clear evidence of manifest error, capriciousness, or arbitrariness. In other words, it must be clearly demonstrated to be wrong, additionally it must be such as no reasonable body of men, well-versed in that subject, would regard it as correct. It is germane to annotate this tenet thus; even a reasonable group of persons cannot/may not agree on a standard/touchstone model answer to a subjective/descriptive type of question. To put it differently, a subjective type of question may result in several, differing answers as individual knowledge and skills of even the experts possessing similar qualification(s) may cause some variation(s). These postulations would apply, with more vigour, where the *extant* rules/regulations proscribe re-evaluation and hence the writ Court should generally adopt a "hands-off" approach in such a situation. Judicial intervention in such matter should be exercised with considerable circumspection, respecting the examiner's discretion and expertise, and refraining from undue interference unless grave injustice is apparent in the assessment process.

This Court must hasten to sound a word of caution herein. In case, the applicable rules/provisions are silent regarding re-evaluation or even when such rules/provisions proscribe re-evaluation, the writ Court may still interfere and enter into the realm of adjudging the veracity of the answer given by a candidate to a subjective/descriptive type of question.

Article 226 is couched in comprehensive phraseology and *ex facie* it confers a wide power on the High Court to reach and undo injustice wherever it is found. The Constitution of India has designedly used a broad

language in describing the nature of the power, the purpose for which and the person or authority against whom it can be exercised. Indubitably, it can issue writs in the nature of prerogative writs as commonly understood in English law but scope thereof has been widened by the use of word '*in the nature of*' in *Article 226*. *Ergo,* the High Court is well endowed to issue directions and orders as well apart from writs other than prerogative writs. In other words, *Article 226* enables the High Court to mould the relief(s) to meet any peculiar and complicated requirement emerging in a given case. Accordingly, it is true posit of our Constitutional jurisprudence that the jurisdiction exercised by the High Court under *Article 226* calls for interference once the Court is satisfied that injustice or arbitrariness; and any restriction, whether self imposed or statutory, stands removed in such a situation and no rule or technicality in the exercise of power can stand in the way of the High Court for rendering justice. The very amplitude of the writ jurisdiction demands that it will ordinarily be exercised subject to certain self-imposed limitations.

While a writ Court is endowed with wide and plenary jurisdiction, empowered to administer justice and uphold Constitutional rights, it must exercise such authority with due caution and judicial restraint. The Court must remain mindful of the fundamental principle that its intervention should not transgress the boundaries of functions conferred upon other institutions or authorities, particularly in matters such as the evaluation of examinations. The evaluation process is an exercise of specialized discretion entrusted to the examiner, and it is not the writ Court's role to encroach upon this domain. As an age old adage goes:

"The Judicial Arm should not reach where its grasp is neither necessary nor appropriate"

Thus, the Court's intervention must be reserved for matters where justice demands it, not guided by an emotive appeal at the instance of an unsuccessful candidate. Any undue interference by the writ Court would be overstepping the judicial boundaries and would tantamount to usurping the discretion entrusted to the examiner. It would undermine the integrity and autonomy of the evaluation process, thereby disrupting the delicate balance of institutional roles. The writ Court ought not to interfere due to an individual dissatisfaction with the evaluation when no *ex-facie* defect is detectable. Concomitantly, if an evaluation is clearly deficient, surely the writ Court cannot turn a *Nelson's eye* to such an *ex facie* defect. It is only in a case where the evaluation appears to be grossly incorrect, even from the standpoint of a common-man or common sense, that the Writ Court ought to interfere. A Division Bench of this Court in the case of ***Radhika Likhi*** (supra) has enounced that where the answer submitted by the candidate appears to be incorrect even from the stand point of ordinary usage/understanding, the same requires to be got re-evaluated. *Ergo,* in case accentuating facts of a case receiving consideration at the hands of a writ Court so warrant, such writ Court may enter into the realm of adjudging the veracity of answer given by a candidate, even in the case of a subjective/descriptive type of question. However, such interference by the writ Court ought to be as a matter of exception *nay* prodigious exception, to be exercised only if compelling and extraordinary facts emerge. While permitting re-evaluation in such a case, the writ Court ought not to substitute

the evaluation by its own but should refer it to another expert. It goes without saying that it is neither pragmatic nor feasible to lay any universal exhaustive yardstick or inexorable set of guidelines for exercise of such power, as every case has its own unique factual conspectus, which has to be taken into account by the Court which is *seisin* of the matter in question. It was said by Lord Denning, an observation which met with approval by the Hon'ble Supreme Court, that:

> *"….Each case depends on its own facts, and a close similarity between one case and another is not enough, because even a single significant detail may alter the entire aspect. In deciding such case, one should avoid the temptation to decide case (As said by Cardozo) by matching the colour of one case against the colour of another. To decide, therefore, on which side of the line a case falls, its broad resemblance to another case is not all decisive."*

Analysis (re: facts of present case)

10. Reverting to the case in hand, the expert/examiner has perused the answer given by the petitioner to the *question in issue* and thereafter has chosen to award zero marks to the petitioner for the answer. We have perused the *question in issue* and answer thereto given by the petitioner and, in our considered opinion, it cannot be said that such evaluation was palpably incorrect or egregious. The petitioner is verily seeking this Court to be a super-evaluator, supplanting its view for that of the examiner/expert. This Court is indubitably convinced that, it cannot tread this path, in the factual matrix of the present case. Further, *Clause 33 of the Advertisement* clearly proscribes re-evaluation of the answer sheets. It only permits limited re-checking of the answer sheets, to the extent i.e. as to whether some part of the answer sheet has been left unevaluated or there is a totaling error. In the case in hand, none of these situations emerge, much less are pleaded. *Ergo,*

in the attending facts and circumstances of the writ petition in hand, the same deserves to be rejected.

Decision

11. In view of the preceding ratiocination, the writ petition in hand is dismissed. Pending application(s), if any, shall also stands disposed of accordingly. There shall be no order as to costs.

(SUMEET GOEL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

February 20, 2025
Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No