



CWP-11453-2019 (O&M) & connected cases

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

103+210 (5 cases)

CWP-11453-2019 (O&M)

Date of Decision: 25.02.2026

Lokesh

...Petitioner

Versus

State of Haryana and others

...Respondents

With

Sr. No.	Case No.	Petitioner	Respondents
2.	CWP-11444-2019	Manjeet	State of Haryana and others
3.	CWP-16365-2020	Lakshay Saroha	State of Haryana and others
4.	CWP-6769-2022	Sanjeev Kumar	State of Haryana and others
5.	CWP-14919-2019	Hardeep Singh	Haryana Staff Selection Commission and another

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Jasbir Mor, Advocate and
Mr. Virender Gill, Advocate for the petitioner
(in CWP-11453-2019 & CWP-11444-2019)
Mr. Pardeep Kumar Sehrawat, Advocate for the petitioner
(in CWP-14919-2019)
Mr. Rajat Mor, Advocate for the petitioner
(in CWP-16365-2020 & CWP-6769-2022)
Mr. Teevar Sharma, Deputy Advocate General, Haryana

JAGMOHAN BANSAL, J. (Oral)

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common

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order. For the sake of brevity and convenience, facts are borrowed from *CWP No.11453 of 2019*.

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of Answer Key issued with respect to Question Nos. 6, 56 and 76 of Paper Code 'B' for the post of Constable (General Duty) in Indian Reserve Battalion ('IRB') against Advertisement No. 3/18 dated 16.04.2018.

3. Pursuant to Advertisement No.3/18 dated 16.04.2018, the petitioner applied for the post of Constable (General Duty) in IRB under BC-A Category. The selection process comprised (a) Written Test, (b) Physical Screening Test ('PST'), (c) Physical Measurement Test ('PMT') and (d) scrutiny of documents. The merit list was to be drawn on the basis of marks obtained in the written test, additional qualifications, if any and marks awarded under miscellaneous heads.

4. The petitioner appeared in the Written Test held on 30.12.2018. He attempted all the questions. There were 0.8 marks of each question. He was assigned Question Paper Booklet Series 'B'. Answer key was uploaded on the website of Commission on 25.01.2019 and candidates were granted liberty to file their objections. The objections could be filed upto 5:00 PM of 30.01.2019. A number of candidates submitted their objections with respect to different questions. The matter came to be referred to Chief Examiner who in turn referred all the objections to Expert Committee. The result of Written Test was declared on 07.02.2019. The respondent conducted PST and PMT of petitioner on 16.02.2019. He duly qualified PST and PMT. The respondent declared final result on 03.03.2019 on its website. Name of petitioner did not figure in the final select list.

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5. Learned counsel for the petitioner submits that he does not dispute answer key of Question No.76, however, would submit that there was glaring mistake in the answer key uploaded and relied upon by respondent. There could be no difference of opinion with respect to answer of Question No.56. There was further mistake with respect to answer of Question No.6. The respondent has chosen different option in subsequent exams with respect to said question which vindicates stand of the petitioner. The respondent advertised 500 seats under different categories. As per his knowledge, about 250 seats are still lying vacant. The respondent, subsequent to advertisement in question, has never advertised posts of Constables in IRB, thus, there is no occasion for utilization of seats which remained vacant. He further submits that respondent did not appreciate objections of candidates in true spirit. For the namesake, the matter was referred to Expert Committee which mechanically rejected all the objections. Authentic material available in the public domain indicates that opinion of Expert Body is totally incorrect.

6. *Per contra*, learned State counsel submits that a large number of objections were received from the candidates. All the objections were forwarded to the Chief Examiner who in turn referred them to an Expert Committee. On receipt of report of the Expert Committee, the revised answer key was prepared and evaluation of OMR sheets was done by the Commission. The Commission is not an Expert Body to decide the correctness of the answers and it is left to the Expert Committee. In the present world of digitization and internet, the answers to different questions may differ from site to site and book to book. The Commission has no mechanism to ascertain the correctness of an answer at its own level and therefore, has no option but to rely upon the report of the Expert Committee.



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It is settled law that once the Expert Committee has finalized the answer key then the same shall be considered as final as the expertise in the academic matter is left to the experts only. In the event of doubt, the benefit should go to the examination authority rather than to the candidate. In support of his contentions, learned State counsel relies upon judgment of Supreme Court in *Ran Vijay Singh and others v. State of Uttar Pradesh and others, (2018) 2 SCC 357* and *Bihar Staff Selection Commission and others v. Arun Kumar and others, (2020) 6 SCC 362*.

7. Heard the arguments and perused the record.
8. The petitioner has doubted answer of two questions which for the ready reference are reproduced as below:

“6. _____ built a palace in Narnaul who was the Diwan of Mughal emperor, Shahjahan.

- (A) Birbal
 (B) Rai Mukund Das
 (C) Rai Madhav Das
 (D) None of the above

56. Present Chairman of National Commission for Women (NCW)

- (A) Arundathi Bhattacharya
 (B) Snehalatha
 (C) Lalitha Kumaramangalam
 (D) None of the above”

As per petitioner, the correct answers of aforesaid questions are different from option selected by respondent and its Expert Committee.

9. Before dwelling into issue involved, it would be apposite to have bird’s eye view of judicial precedents.



9.1 Hon'ble Supreme Court in *U.P.P.S.C and another v. Rahul Singh and another, 2018 AIR (Supreme Court) 2861* while adverting to correctness of answers key has held that the law is well settled that onus is on the candidate to not only demonstrate that the key answer is incorrect but also that it is a glaring mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong. The Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answers.

9.2 In *Ran Vijay Singh (supra)*, the Supreme Court while dealing with the question of re-evaluation or scrutiny of answer sheets has held that:

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

30.1 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;

30.2 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 reevaluation 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;

30.3 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;



30.4 The Court should presume the correctness of the key answers and proceed on that assumption; and

30.5 In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.”

9.3 In *High Court of Tripura v. Tirtha Sarathi Mukherjee and others, (2019) 16 SCC 663* the Supreme Court has held that a grave injustice may be occasioned to a writ applicant in certain circumstances. The case may arise where despite giving the correct answer no marks are awarded. If there is any doubt, the doubt should be resolved in favour of the examining body rather than in favour of the candidate. The wide power under Article 226 of the Constitution of India may continue to be available even though there is no provision for re-valuation in a situation where a candidate despite having giving correct answer and about which there cannot be even the slightest manner of doubt, he is treated as having given the wrong answer and consequently the candidate is found disentitled to any marks.

10. Petition in hand needs to be adjudicated in the light of law enunciated by Supreme Court because there are no particular statutory provisions governing the issue involved.

11. From the reading of above cited judgments, it is evident that High Court cannot turn a blind eye if selection board has selected an answer which cannot be accepted at all. If there is doubt, the benefit of doubt must go to selection agency, however, in the absence of doubt, if opinion of selection agency is accepted, it would entail casualty of merit, mis-carriage of justice and violation of Articles 14 and 16 of the Constitution of India. Constitutional Courts are custodian of fundamental rights and assigned role of sentinel on the *qui vive*. One cannot be heard to claim that government job

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is his fundamental right, however, the moment he cuts the ice and crosses the cut off barrier, cannot be ignored on account of lapse on the part of government machinery because it would amount to violation of fundamental right of equality in job opportunities guaranteed by Articles 14 and 16 of the Constitution of India.

11.1 A Constitution Bench in *S.P. Gupta v. Union of India, 1981 Supp SCC 87* has observed that if there is one principle which runs through the entire fabric of the Constitution, it is the principle of the rule of law. It is the judiciary which is entrusted with the task of keeping every organ of the State within the limits of the law and thereby making the rule of law meaningful and effective. It is to aid the judiciary in this task that the power of judicial review has been conferred upon the judiciary and it is by exercising this power which constitutes one of the most potent weapons in armoury of the law, that the judiciary seeks to protect the citizens against violation of his constitutional or legal rights or misuse or abuse of power by the State or its officers. The judiciary stands between the citizen and the State as a bulwark against executive excesses and misuse or abuse of power by the executive.

12. The respondent has pleaded that Commission is not an Expert Body. It has further pleaded that in the present world of digitalization and internet, the answer to different questions may differ from site to site and book to book. The Commission is dependent upon report of Chief Examiner/Expert Body. The respondent-Commission is right in its averments with respect to questions relating to Physics, Geography, History and other subjects, however, source of answer to Question No.56 is one and only i.e. Website of National Commission for Women. The exam was conducted on 30.12.2018 and question paper might have been settled by

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examiner few months back. At that point of time, Chairman of National Women for Women was Lalitha Kumaramangalam, thus, Option 'C' was correct answer, however, Chairman changed in August' 2018 and at the time of written test, Rekha Sharma was the Chairman. There was no option with respect to Rekha Sharma, thus, petitioner opted option 'D' i.e. '*none of the above*'. As answer of the petitioner was correct, he was entitled to marks of said question.

13. As laid down by Supreme Court, in case of doubt, the benefit of doubt should be given to Selection Committee, however, in the absence of doubt/ambiguity, the candidates cannot be deprived of marks of correct answer. The candidates who had opted answer of aforesaid question as '*none of the above*' could not be denied marks, accordingly it is hereby held that respondent shall grant marks for aforesaid question to all the petitioners who had opted for '*none of the above*' as answer to aforesaid question. If any petitioner, after getting marks for aforesaid question, scores more than last selected candidate in his category, he would be issued appointment letter.

14. In the wake of law laid down by Hon'ble Supreme Court, the fact that respondent referred the matter to Chief Examiner who further forwarded the matter to an Expert Committee and there is no allegation of *mala fide*, this Court is not inclined to invoke its extraordinary writ jurisdiction with respect to Question No.6 which is a pure question of history.

15. Learned counsel for the petitioners are further claiming that more than 250 posts are still lying vacant and these posts were neither utilized out of candidates who appeared against advertisement in question nor were further advertised. If the respondent has not utilized more than 250



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seats out of 500 advertised seats, it is advisable to consider petitioners if they qualify prescribed/minimum parameters. The respondent is claiming that waiting list has expired, thus, petitioners cannot be considered. The petitioners approached this Court in 2019 and at that point of time, neither selection process nor waiting list had concluded/expired, thus, argument of respondent that selection process has concluded and even waiting list has expired does not work. The said argument of State cannot be countenanced.

16. In the wake of this order, if the petitioners are issued appointment letters, their appointment is not going to affect already selected candidates because more than 250 seats are still lying vacant. As conceded by learned counsel for the petitioners, the date of joining of the petitioners shall be their date of appointment for all intents and purposes. The respondents would be at liberty to examine other terms and conditions of advertisement while considering their claim. The needful shall be done within two months from today.

17. This order may prompt fence sitters to approach this Court. The benefit of this order shall be available only to present petitioners and it would not be available to any fence sitter otherwise there would be no end of litigation and it may open Pandora's Box.

18. In the aftermath, the instant petitions are hereby disposed of in above terms.

19. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

25.02.2026

Mohit Kumar

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