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TEJINDER KAUR & ORS.

v.

LADY CONSTABLE RAJ KUMARI & ORS.

(Civil Appeal No. 6479 of 2008 etc.)

B

NOVEMBER 5, 2008

[DR. ARIJIT PASAYAT, C.K. THAKKER AND
LOKESHWAR SINGH PANTA, JJ.]

C *Service Law – Selection for training for the sake of*
promotion – Written test – Candidate declared unsuccessful
filing writ petition seeking of revaluation of her answer scripts
as well as of some of the successful candidates – Revaluation
permitted – Despite revaluation no change in result – Another
D *writ petition by the candidate seeking quashing of selection*
of few candidates on the ground that on revaluation they got
lesser marks than her or to permit her to take the course –
High Court not permitting the candidate to take the course
and quashing the selection of the few successful candidates
E *– On appeal held: In the facts of the case, selection of the*
candidates cannot be set aside – The unsuccessful candidate
does not deserve to be selected as she did not make the
grade.

F **Respondent No.1 in C.A. No. 6479 of 2008 ‘R’-a lady**
constable, alongwith the appellants took B-1 test
examination for the purpose of being sent to Lower
School Training Course. The appellants were shown
successful in the examination, while ‘R’ was informed that
she had not made the grade. ‘R’ unsuccessfully sought
revaluation of her answer script from the authorities. She
G **filed a writ petition, which was disposed of by High Court**
directing revaluation of answer scripts of ‘R’ as well as
of the appellants. It also directed that on reassessment if
‘R’ was found meritorious, she should be given
opportunity to undergo training course.

H

As per the order of High Court, revaluation was done, but the results did not change. 'R' served notice for ascertaining her status as well as that of the appellants. She was informed that her marks remained same after revaluation and she did not fall in merit.

'R' filed writ petition for quashing the selection of appellants on the ground that on revaluation, marks of the appellants had been reduced and some of the appellants thus got lower marks than her. In the alternative she sought permission to take the course. High Court dismissed the prayer of 'R' for being sent for training holding that she had not made the grade. However, the Court quashed the selection of the appellants. Hence C.A.Nos. 6479 and 6480 of 2008 by the appellants and respondent 'R' respectively.

Appellants also filed writ petition challenging the reassessment on the ground that it was done by a Board which was not duly constituted. High Court declined to interfere with the same Hence C.A. No. 6481 of 2008.

Disposing of the appeals, the Court

HELD: 1.1 The guidelines provide for request by the candidate for re-assessing of his/her marks and there is no scope for asking for re-assessment in the case of other candidates. But in view of the fact that the appellants had completed 2 ½ years of training and in the meantime they had appeared in List B, C and List D, that part of the order of the High Court is set aside by which their selection was set aside. It would be inequitable to deprive the appellants the benefits of what had been extended to them. Deficiency, if any, in not allotting proper marks as done by the authorities cannot deprive them of the benefit which they have obtained. It is not shown that they were a party to the wrong allotment of marks at the original stage. The position may have been

A different if that was so. [Paras 6 and 7] [493-G, H; 494-A, B]

B 1.2 Since respondent No. 1-candidate has not made the grade, her appeal deserves to be dismissed. There is no substance in the plea that some of the appellants in the other appeal had secured lesser marks than her. Because of the circumstances of the case, the analogy cannot be extended to her. [Para 7] [494-C]

C 2. C.A.No.6481/2008 wherein the appellants have questioned the impropriety in the process of re-assessment done, is not required to be dealt with in view of the order passed in CA No. 6479 of 2008. [Paras 9 and 10] [494-E]

D CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6479 of 2008.

E From the final Judgment and Order dated 8.11.2005 of the High Court of Punjab and Haryana at Chandigarh in C.W.P. No. 4256 of 2005.

WITH

C.A. Nos. 6480 and 6481 of 2008.

F Gaurav Dhingra, Priyanka S. Mathur, Vishal Malik, M.C. Dhingra, S. Janani, Ajay Pal and Kuldip Singh for the appearing parties.

The Judgment of the Court was delivered by

G DR. ARIJIT PASAYAT, J. 1. Leave granted

SLP (C) NO. 25067 of 2005 and SLP (C) No. 6173 of 2006

H 2. These two appeals are inter linked and are therefore disposed of by the common judgment. Challenge in each case

is to the judgment of a Division Bench of the Punjab and Haryana High Court allowing in- part the writ petition filed by Raj Kumari, the respondent No.1 in appeal relating to SLP(C) No. 25067 of 2005 and the appellant in the appeal relating to SLP (C) No. 6173 of 2006.

3. Background facts in a nutshell are as follows:

Raj Kumari filed a writ petition *inter alia* contending that she had joined the Punjab Police Force as Lady Constable. During the course of service she became eligible to take B1 test examination which was held on 15.3.2002 for the purpose of being sent to Lower School Training Course. Alongwith her, the appellants in appeal relating to SLP(C) No. 25067 of 2005 also appeared. When the results were declared, the aforesaid appellants were shown as successful and Raj Kumari was informed that she had not made the grade. She was of the view that a lot of burgling had taken place in the examination hall and favour was shown to some persons to make the grade. She submitted a written request to the Senior Superintendent of Police, Hoshiarpur for re-checking of her papers but the request was not granted. She again made a similar request vide written communication dated 3.4.2002 to the Deputy Inspector General of Police, (in short the 'DIG') Jalandhar. The same was also rejected. She filed a writ petition bearing CWP No. 7687 of 2002. The State was directed to produce the answer script of the Raj Kumari and the appellants in appeal relating to SLP(C) No. 25067 of 2005. Upon perusal of the answer scripts, the Division Bench felt that they need to be re-assessed. Accordingly notice was issued to the appellants in appeal relating to SLP(C) No. 25067 of 2005 who were respondent Nos. 6 to 10 in the writ petition. A committee was constituted to re-assess the answer sheets. However, the answer sheets of only the writ petitioners and respondents Nos. 6 to 10 were re-assessed and there was no re-assessment in respect of rest of the successful candidates. Upon re-assessment the marks obtained by Raj Kumari, the writ

A petitioner and the respondent Nos. 6 to 10 were as follows:

	Candidate	Marks before reassessment	Marks after reassessment
B	Appellant Rajkumari	47	47
	Respondent No. 6	53	44
C	Respondent No. 7	50	46
	Respondent No. 8	50	40
	Respondent No. 9	50	45
D	Respondent No. 10	50	48

The High Court noticed that upon re-assessment, the respondents 6 to 10 were given lesser marks than what they obtained prior to re-assessment. The writ petition was disposed of accordingly. The writ petitioner served a notice for ascertaining her status as well as the status of respondent Nos. 6 to 10. A communication dated 28.10.2004 was received by the writ petitioner from the Senior Superintendent of Police, Hoshiarpur that her status qua the marks remain the same. The writ petitioner took the stand that her answer script has not been properly checked and on re-assessment respondent nos. 6 to 10 has not received the minimum grade of marks and, therefore, their selections were to be set aside.

The High Court directed the respondents to produce the original records relating to the process of selection and the actual selection. Written statements were filed. It was pointed out that the respondent Nos. 6 to 10 had already been sent for training. They had completed the training and as a result of re-valuation after 2½ years the whole thing cannot be undone as

that would cause loss to the State exchequer. The High Court, however, felt that though they have sent for the course for 2½ years earlier that would not confer any equity on them, It was however held that since writ petitioner had not made the grade, the writ petition was to be dismissed, so far as her prayer for being sent to training for the Lower School course is concerned. The selection of respondents 2 to 6 in the writ petition was set aside and it was held that they shall not be entitled to any benefit of having completed their course.

4. In support of the appeal, learned counsel for the appellants who were respondent Nos. 6 to 10 submitted that the procedural guidelines did not permit a candidate to seek re-evaluation of another candidate's answer script. It was restricted to her papers alone, and therefore, by the impugned judgment, the High Court should not have set aside their selection and that too after they had completed the course of 2 ½ years earlier. It is pointed out that in the meantime they have gone from List B to List C and also undergone training for the post of ASI in List D. That being the situation the High Court's judgment is indefensible. It is also submitted that the appellant Raj Kumari cannot claim any benefit because she had not made the grade.

5. Learned counsel for Raj Kumari on the other hand submitted that assessments done in her case were not proper. With reference to the copies of the answer script she submitted that marks which ought to have been allotted had not been allotted.

6. We find that the guidelines really provide for request by the candidate for re-assessing of his/her marks and there is no scope for asking for re-assessment in the case of other candidates. But in view of the earlier order of the High Court that question has become academic. It is to be noted that the respondent Nos. 6 to 10 in the writ petition had completed 2 ½ years of training. In the meantime they had appeared in List B, C and List D.

A 7. In view of the aforesaid peculiar situation we set aside
that part of the order of the High Court by which their selection
was set aside. It would be inequitable to deprive them the
benefits of what had been extended to them. Deficiency, if any,
in not allotting proper marks as done by the authorities cannot
B deprive them of the benefit which they have obtained. It is not
shown that they were a party to the wrong allotment of marks
at the original stage. The position may have been different if
that was so. That being so, their appeal is allowed. But the
appellant Raj Kumari has not made the grade. Therefore, her
C appeal deserves to be dismissed, which we direct. There is
no substance in the plea that some of the appellants in the
other appeal had secured lesser marks than her. But because
of the circumstances highlighted above, we feel that the
analogy cannot be extended to her. The appeals are
D accordingly disposed of.

SLP(C) No. 2512 OF 2007

1. Leave granted.

E 2. In this present case the appellants have questioned
correctness of the order passed by the High Court declining to
consider their prayer about the impropriety in the process of
re-assessment done. It was their case that they came to know
from the return filed by the State government that the re-
assessment was done by the Board which was not properly
F constituted. It is, therefore, their case that re-assessment as
done has no legal sanction. The High Court declined to interfere
as the connected matters were pending before this Court.

G 3. In view of the orders passed in appeal relating to
SLP(C) No. 25067 of 2005, there is no necessity for dealing
with the stand taken by the appellants.

4. The appeal is accordingly disposed of.

H K.K.T.

Appeal disposed of.