

# SUPREME COURT OF INDIA

Tejinder Kaur

Vs.

Lady Constable Raj Kumari

(Dr. Arijit Pasayat, C.K.Thakker and Lokeshwar Singh Panta JJ.)

05.11.2008

## JUDGMENT

**Dr. Arijit Pasayat, J.**

1. Leave granted

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

Candidate	Marks reassessment	before reassessment	Marks after reassessment
Appellant Rajkumari	47		47
Respondent No. 6		53	44
Respondent No. 7		50	46
Respondent No. 8		50	40
Respondent No. 9		50	45
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 2= 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 2= 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 = 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 = years of training. In the meantime they had appeared in List B, C and List D.

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 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 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 accordingly disposed of.

SLP(C ) No. 2512 OF 2007

1. Leave granted.

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 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.

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.