

(2014) 07 SHI CK 0137
High Court of Himachal Pradesh
Case No: CWP No. 4412 of 2014

Ekansh Kapil

APPELLANT

Vs

H.P. Public Service
Commission

RESPONDENT

Date of Decision: July 9, 2014

Hon'ble Judges: Mansoor Ahmad Mir, C.J; Tarlok Singh Chauhan, J

Bench: Division Bench

Advocate: Sanjeev Bhushan, Advocate for the Appellant; D.K. Khanna, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Mansoor Ahmad Mir, C.J.

The petitioner, through the medium of this writ petition, has called in question the key answers published by the respondent and according to the writ petitioner, key answers of question Nos. 3, 45, 50 of Civil Law-I, question Nos. 5, 9, 12 and 29 of Civil Law-II and question Nos. 31, 33 and 37 of the Criminal Law are incorrect.

2. It appears that the petitioner has appeared in the Himachal Pradesh Judicial Service Preliminary Examination and could not make a grade. The key answers were displayed on official website of the respondent. After noticing the key answers, the petitioner responded in terms of instruction No. 23 of the instructions/guidelines issued by the respondent, which has also been filed in the Court today by Mr. D.K. Khanna, Advocate, across the Board, made part of the file. The respondent sent the key answers, questioned by the petitioner to the expert and expert examined the same and found that there was some mistake.

3. In terms of the Court order dated 26.6.2014, respondent was directed to produce the result of the petitioner in the sealed cover. Today Mr. D.K. Khanna, Advocate, stated that after examining the key answers of the petitioner, the matter was referred to the experts and expert after examining all the key answers found that

the petitioner has obtained 224 marks in total which is below the qualifying cut of marks, thus, could not make a grade. He has also produced across the Board, the result of the petitioner in a sealed cover which, after re-sealing is kept in the file.

4. Mr. D.K. Khanna, Advocate, argued that they have examined the case of the petitioner in terms of instruction No. 23 and expert determined the issue and this Court cannot sit over the expert opinion. He replied on a judgment of the apex court in [H.P. Public Service Commission Vs. Mukesh Thakur and Another,](#)

It is apt to reproduce para 20 of the said judgment hereunder:

20. In view of the above, it was not permissible for the High Court to examine the question paper and answer sheets itself, particularly, when the Commission had assessed the inter-se merit of the candidates. If there was a discrepancy in framing the question or evaluation of the answer, it could be for all the candidates appearing for the examination and not for respondent 1 only. It is a matter of chance that the High Court was examining the answer sheets relating to law. Had it been other subjects like physics, chemistry and mathematics, we are unable to understand as to whether such a course could have been adopted by the High Court. Therefore, we are of the considered opinion that such a course was not permissible to the High Court.

5. Applying the above test in the instant case read with the stand taken by the respondent and the fact that after rechecking, the petitioner failed to make a grade, the present petition merits dismissal, and is dismissed as such alongwith pending applications, if any.