

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No. 1957 of 2018**

***Amitav Tripathy***

....

***Petitioner***

Mrs. Sujata Jena, Advocate

*-versus-*

***Orissa High Court, represented by the  
Registrar General***

***Opposite Party***

Mr. P.K. Muduli, Addl. Government Advocate

**CORAM:  
THE CHIEF JUSTICE  
JUSTICE R.K. PATTANAİK**

**Order No.**

**ORDER  
11.05.2022**

27. 1. Pursuant to the order passed by this Court on 7<sup>th</sup> April, 2022 the Examination Committee has again considered the matter and an affidavit has been filed on 4<sup>th</sup> May, 2022 offering the following views:

“3. That, in compliance of Order dated 07.04.2022, this deponent submits that the Examination Committee held its meeting on 19.04.2022 and perused the answer script (Pager-II) of Shri Amitav Tripathy (Roll No.219) and have offered the following views:

(i) After verification of the marks awarded by the examiner in the said answer scrip with the mark sheet attached, it is found that there is an error in totaling of the marks. The total marks come to 45.5 instead of 43.5 marks in paper-II of the Petitioner.

(ii) As regards evaluation of marks on question Nos.1 and 3 of Group-D is concerned, the Committee on going through the answers on the face of the prohibition contained in the rules finds no such impropriety or irregularity in awarding of marks.

(iii) In view of our answer on point no.(ii), since the petitioner is not securing 47% of marks in Paper-II there arises no scope of his being called for the interview.”

2. Yesterday, when the matter was listed the Court inquired of learned Additional Government Advocate appearing for the Opposite Party to show the Rule which contained the prohibition as stated in para (ii) above. Today, a letter has been handed over stating that the Rule was in fact “law laid down by the Hon’ble Apex Court in a plethora of decisions.” In other words, there is no rule as such prohibiting revaluation of the answers.

3. As regards the scope of the High Court’s jurisdiction in matters of this kind, the following observations in ***High Court of Tripura v. Tirtha Sarathi Mukherjee AIR 2019 SC 3070*** in a similar context, are relevant. There, the Supreme Court has observed as under:

“19. The question however arises whether even if there is no legal right to demand revaluation as of right could there arise circumstances which leaves the Court in any doubt at all. A grave injustice may be occasioned to a writ applicant in certain circumstances. The case may arise where even though there is no provision for revaluation it turns out that despite giving the correct answer no marks are awarded. No doubt this must be confined to a case where there is no dispute about the correctness of the answer. Further, 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 may continue to be available even though there is no provision for revaluation in a situation where a candidate despite having giving correct answer and about which there cannot be even slightest manner of doubt, he is treated as having given the wrong answer and consequently the candidate is found disentitled to any marks.”

4. Consequently, in exercise of the powers under Article 226 of the Constitution in a rare and exceptional case the power of the Court is not denuded from ordering re-valuation.

5. In the present case, the Court has perused the answers to the questions 1 and 3 of Group-D where the Petitioner has been awarded 0.5 marks each. The reason given in the counter affidavit for the said marks is that “on their very face appears to be cryptic and not elaborative enough keeping in view the marks assigned to the concerned question”. The maximum marks assigned to the concerned questions were 5 each.

6. Having carefully considered the matter, the Court is of the considered view that the answers of the Petitioner to the above two questions must be asked to be revalued by a Law Expert. The Court directs the Registrar (Examinations) to send the original answer script of the Petitioner to any Law Expert, as may be chosen by the Examination Committee, in a sealed cover and only the answers to questions 1 and 3 of Group-D be asked to be revalued and the result of such revaluation be placed before this Court on the next date.

7. The Court would like to clarify that it considers this to be a “rare and exceptional case” and further clarifies that this order should not be construed as a precedent since every case of this kind would turn on its peculiar facts and circumstances.

8. List on 18<sup>th</sup> May, 2022. A copy of this order be immediately delivered to the Registrar (Examinations).

*(Dr. S. Muralidhar)*  
*Chief Justice*

*(R.K. Pattanaik)*  
*Judge*

*S.K. Jena/Secy.*

