HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Civil Writ Petition No. 1226/2022

Ashwini Chaturvedid

----Petitioner

Versus

High Court Of Judicature For Rajasthan, Jodhpur, Through Its Registrar General.

----Respondent

For Petitioner(s) through V.C. : Mr. Rakesh Arora

For Respondent(s) : ---

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI
HON'BLE MR. JUSTICE MADAN GOPAL VYAS

Order

28/01/2022

The petitioner has challenged the assessment in the final result declared on 11.01.2022 in Civil Judge Cadre of Rajasthan Judicial Services (Preliminary Examination), which examination was conducted by the High Court administration. The petitioner believes that according to the answers given by her in the said examination, which comprised of multiple choice questions, on the basis of the answer key published by the High Court, she would have scored 71 marks. She would point out that the cut-off marks for general candidates to appear in the main examination was 72 marks. The petitioner thus missed out clearing the preliminary examination only by 1 mark.

The petitioner has questioned the correct answers declared by the High Court administration in relation to two questions, which are as under:-

80. ""अकारण" शब्द का विलोमार्थी शब्द है:—

(1) विकारण
(2) सकारण
(3) नकारण
(4) कारण"

81. ""अनुप्रास" अलंकार का कौन सा उदाहरण है:—

(1) निधियां न्यारी
(2) मोल करेगा
(3) लहरकर यदि चूमे
(4) सब गजरे"

Learned counsel for the petitioner pointed out that in relation to question No.80, noted above, the petitioner had answered option No.(4) as a correct answer, whereas the High Court administration has declared that correct answer was option No. (2). Likewise, in relation to question No.81, noted above, the petitioner had chosen option No.(1) as correct answer, whereas the High Court administration had deleted the question.

Learned counsel for the petitioner submitted that the petitioner had given correct answers to both the questions. The administration therefore committed a serious error in declaring the petitioner's answer to the question No.80 as incorrect and deleting the question No.81 altogether. In order to support that the petitioner had given correct answers to these questions, learned counsel for the petitioner relied on certain booklets containing Hindi grammar.

As is general experience, the examinations conducted by the recruiting agencies for appointment to public posts, more often than not, run into controversies with respect to the correctness of questions and answers. The State as well as Union Public Service

Commission are also not spared with these controversies. Often times, there are multiple representations received from the examinees and even the recruiting agencies need to obtain expert opinion for which purpose expert committees are drawn. Eventually, the correct questions are declared or in some cases, on account of some ambiguity, doubt or lack of certainty, the question is deleted altogether. However much we may desire, hardly any recruitment process is completed without its share of controversies. In the present case also, the petitioner has raised questions about the administration's decision on the correct choice in relation to question No.80 and its decision to delete the question No.81.

We do not think that the petitioner has made out any case for interference. As is well settled through series of judgments of the Supreme Court, interference by the High Court in specialized fields where recruitment is being made through specialized agencies, should be the minimum. In the context of correctness of the questions or answers, the role of the High Court in exercise of writ jurisdiction under Article 226 of the Constitution of India would be extremely limited. Unless it is pointed out that either the question or the answer is completely and clearly wrong, the High Court would not overrule a well considered decision of the expert body. In the case of **Ran Vijay Singh and others Vs. State of Uttar Pradesh and others (2018) 2 SCC 357**, the Supreme Court had referring to large number of decisions on the point has observed as under:-

> *"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 re-evaluation 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.

31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been cause to them by an erroneous question or an erroneous answer. All candidates suffer equally, through some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse-exclude the suspect or offending question.

32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no

finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination-whether they have passed or not whether their result will be approved or disapproved by the court; whether they will get admission in a college or university or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers.

33. The facts of the case before us indicate that in the first instance the learned Single Judge took it upon himself to actually ascertain the correctness of the key answers to seven questions. This was completely beyond his jurisdiction and as decided by this Court on several occasions, the exercise carried out was impermissible. Fortunately, the Division Bench did not repeat the error but in a sense, endorsed the view of the learned Single Judge, by not considering the decisions of this Court but sending four key answers for consideration by a one-man Expert Committee."

In the case of **Uttar Pradesh Public Service Commission, and another Vs. Rahul Singh and another (2018) 7 SCC 254**, once again these aspects were reiterated. Referring to the decision in the case of Ran Vijay Singh (supra), it was further observed as under:

"12. The law is well settled that the 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. In Kanpur University case (supra), the Court recommended a system of -

(1) moderation;

(2) avoiding ambiguity in the questions;

(3) prompt decisions be taken to exclude suspected questions and no marks be assigned to such questions."

With this background, we may revert back to the facts of the case. So far as question No.80 is concerned, clearly the answer as declared correct by the respondents was closest opposite that could be found from the multiple choices presented. So far as question No.81 is concerned, in view of the fact that the respondents found that the question itself was ambiguous or possible of more correct answers than one and therefore, decided to delete the question, we do not find any reason to interfere.

In the result, the petition is dismissed.

(MADAN GOPAL VYAS),J **(AKIL KURESHI),CJ**

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