

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.737/2023

1. Merry Debbarma, wife of Sri Subodh Debbarma, resident of village-Joy Ram Kobra Para, P.O.-Ramchandranagar, P.S.-Bodhjungnagar, District:-West Tripura, Pin:-799008, Age-31.

2. Amal Debbarma, son of Late Sukuram Debbarma, resident of village-Birbal Para, P.O.-Ramchandranagar, P.S.-Bodhjungnagar, District:-West Tripura, Pin:-799008, Age-32.

..... Petitioner(s).

V E R S U S

1. The State of Tripura, represented by the Commissioner & Secretary to the Department of Law and Parliamentary Affairs, Government of Tripura, New Secretariat Complex, Gurkhabasti, Agartala, P.O.-Kunjaban, P.S.-New Capital Complex, Sub-Division-Sadar, District-West Tripura.

2. The District & Sessions Judge, North Tripura Judicial District (Chairman of the Selection Committee), Dharmanagar, P.O. & P.S.-Dharmanagar, District-North Tripura.

3. Sri Chiranjit Tripura, son of Krishna Mohan Tripura, resident of village-North Ichachara, P.O.-Debdaru, P.S.-Baikhora, District-South Tripura, Pin-799141.

4. Sri Koushal Chakma, son of Tarun Chakma, resident of village and P.O.-Mainama, P.S.-Chailengta, District-Dhalai Tripura, Pin-799275.

.....Respondent(s).

For Petitioner(s)	: Mr. P. Roy Barman, Sr. Advocate, Mr. Koomar Chakraborty, Advocate.
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For Respondent(s)	: Mr. Dipankar Sarma, Addl. G.A.
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HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Date of hearing and judgment: **14th December, 2023.**

Whether fit for reporting : **YES.**

JUDGMENT & ORDER(ORAL)

Heard Mr. Koomar Chakraborty, learned counsel appearing for the petitioners and Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the respondent No.1-State.

2. Petitioners participated in a recruitment process under the advertisement dated 05.04.2021 for recruitment to 50 number of posts of Peon/Orderly/Guard etc. (Group-D) on regular pay scale basis and 48 number of vacant posts of Peon/Orderly/Guard etc. (Group-D) on fixed pay basis (totalling 98 posts) under the Sub-ordinate Judiciary of Tripura conducted by the District & Sessions Judge, North Tripura, Dharmanagar. The selection process was twofold, (i) written test (of 75 marks); and (ii) viva voce test (for 25 marks). 75 marks allotted to written test was further bifurcated into three parts, viz. (i) Letter writing (of 25 marks); (ii) Handwriting test (of 25 marks); and (iii) G.K. & Current Affairs (of 25 marks). Petitioners appeared in the written test on 05.12.2021 on conclusion whereof call letters were issued asking the shortlisted candidates to appear in the viva voce test. The viva voce test was held between 10.12.2022 to 18.12.2022. The Final Common Merit List was published on 17.01.2023 which was computed on the basis of the marks obtained in the written test as well as the viva voce test.

3. Mr. Koomar Chakraborty, learned counsel for the petitioners, submits that the petitioners though being very hopeful and confident could not find their names in the Final Merit List out of 125 selected candidates. Under RTI, petitioner No.1 Merry Debbarma sought for supply of the relevant select list of all the candidates including the marks obtained by them in the written test and viva voce test. The Public Information Officer [Civil Judge (Jr. Division), North Tripura, Dharmanagar] through letter dated 30.03.2023 supplied a copy of the select list (Annexure-4). The breakup of the selected candidates in each category has been tabulated under paragraph-2.12. Noticing the variance in the marks of the first candidate in the selected candidates under

the ST category and the last candidate, petitioners have borne a reasonable apprehension that why they were not selected. They sought supply of copies of their respective answer sheets and information regarding breakup of their respective marks as awarded in the written test and viva voce test. Petitioner Merry Debbarma found that in the written test, she had scored 39 marks whereas she got only 3 marks in the viva voce test, totalling 42 marks. The written examination was for 75 marks and the viva voce examination was for 25 marks. Petitioner No.2 Amal Debbarma found from his answer sheets that he had scored 34 marks in the written test whereas he got only 6 marks in the viva voce test, totalling 40 marks.

4. Petitioners on scrutiny of their answer sheets supplied by the Public Information Officer found that in the handwriting test, they had been awarded very meager and negligible marks despite the fact that they had actually attempted and performed very well in the same. Question No.2, in particular, required Bengali and English Handwriting of the precis piece indicated therein. According to the petitioner Merry Debbarma, there were no spelling mistakes in the Bengali Handwriting which was also very neat, nice and legible. However, she was awarded only 4 marks out of 12.5 marks. Similarly, in the English Handwriting part, there were no spelling mistakes and the handwriting was very neat, nice and legible, but she was erroneously awarded only 4 marks out of 12.5 marks. Similarly, in respect of petitioner No.2 Amal Debbarma in the Bengali Handwriting though there was only one spelling mistake and the handwriting was very neat, nice and legible, he was erroneously awarded only 4 marks out of 12.5 and in English Handwriting though there were no spelling mistakes and the handwriting was neat, nice and

legible, he was awarded only 5 marks in Bengali out of 12.5. Had the evaluation been properly made, they could have scored higher and come into the category of successful candidates. Both the petitioners, therefore, have an apprehension that the evaluation has not been fairly made. As such, the petitioners have prayed for direction upon the official respondents to appoint an independent Expert Body to re-scrutiny and re-check the respective answer sheets of the petitioners. They have also prayed for quashing the impugned Final Merit List dated 17.01.2023 and impugned select list (Annexure-3 and 4 respectively). Petitioners have also sought a direction upon the official respondents to award higher marks to the petitioners in the concerned written test as well as in the viva voce test.

5. Learned counsel for the petitioners submits that, therefore, the respondents may be called upon to respond to the categorical assertions regarding improper evaluation of the answer sheets of the petitioners, in particular, the answer to Question No.2 which related to Bengali and English Handwriting. Learned counsel for the petitioners has sought to make good his point by referring to relevant answers to Question No.2 obtained under RTI being part of the pleadings. Learned counsel for the petitioners, in support of his submission, has relied upon the decision of the Apex Court in the case of ***Registrar General, High Court of Delhi vrs. Ravinder Singh*** reported in 2023 ***LiveLaw (SC) 553***.

6. Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the respondent No.1-State, submits that the principles as regards reevaluation or scrutiny of an answer sheet are now well settled by the Apex Court. He has relied upon the decision rendered by the Apex Court in the case

of *Ran Vijay Singh and others vrs. State of Uttar Pradesh and others* reported in (2018) 2 SCC 357 and submitted that this Court should not re-evaluate or scrutinize the answer sheets of the petitioners since it has no expertise in the matter. The academic matters are best left to academics. The petitioners have failed to demonstrate that a material error has been committed in the evaluation process.

7. This Court has given anxious consideration to the submission of the petitioners and also taken note of the pleadings placed from the record. The principles in respect of evaluation or scrutiny of an answer sheet have been well settled by virtue of decisions rendered by the Apex Court which have been summarized in the case of *Ran Vijay Singh* (supra) at paragraphs-30 and 31 which are extracted hereunder:

"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 scrutinise 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 caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though 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."

8. Petitioners have not referred to any rule which permits reevaluation of the answer sheets under the advertisement in question as a matter of right. Petitioners, in fact, have by inferential process of reasoning tried to draw this Court into evaluation of the answers transcribed by the petitioners which relate to Question No.2 both in Bengali and English. It is not a case that the answer to this question both in Bengali and English have not been evaluated at all. Both the petitioners have been allotted (4+4) and (4+5) marks respectively by the examiner. This Court does not have the expertise to sit as an expert in evaluation of an answer sheet and substitute the evaluation undertaken by the examiner. The adoption of a particular approach to evaluation by an examiner cannot be subjected to judicial scrutiny in case of the present petitioners if the allotment of marks are not up to the expectations of the concerned candidate. As observed above, it is not a case of no evaluation of the answer sheets of the petitioners regarding Question No.2. The petitioners have not been able to point out such material error which makes out a rare or exceptional case. Petitioners, in fact, have through an inferential process of reasoning or rationalization sought to invite the Court to evaluate the marking on the answer sheet by the examiner against Question No.2. In the absence of any *mala fide* or demonstrable rare and exceptional case, this Court should not direct reevaluation of an answer sheet as sympathy or compassion does not play any role in such matters. The illuminating opinion of the Apex Court in

the case of **Ran Vijay Singh** (supra) do require Courts exercising the powers of judicial review under Article 226 of the Constitution of India to exercise restraint in interference in such matters.

9. Having regard to the facts and circumstances noted above and the reasons recorded and in view of the principles laid down by the Apex Court in the case of **Ran Vijay Singh** (supra), this Court does not find any merit to entertain this writ petition. The principles laid down in case of **Ran Vijay Singh** have been followed in **Ravinder Singh** (supra) cited by the learned counsel for petitioners.

10. The writ petition is accordingly dismissed.

Pending application(s), if any, also shall stand disposed of.

(APARESH KUMAR SINGH), CJ

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