

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1137 of 2014

Prabhat Kumar S/O Kapildeo Thakur Present Address C/O Indranand Thakur, Thakur Medical Store, M.G. Marg, P.S. + P.O. + Dist.- Khagaria

.... Petitioner/s

Versus

1. The State Of Bihar, Through The Principal Secretary, Department Of Personnel And Administrative Reforms, Government Of Bihar, Old Secretariat Building, Patna
2. The Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna
3. Kumar Narendra Neeraj S/O Not Known Resident Of Not Known, C/O Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ambuj Nayan Choubey
For the BPSC: Mr. Lalit Kishore, Sr. Advocate
For the Respondent/s : Mr. Avinash Kumar
For the Respondent : Mr. Ashok Prasad

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 23-02-2015

23.02.2015

Petitioner is one of the persons, who sat for the 53rd-55th Common Combined Competitive Examination, held in the year 2011 by Bihar Public Service Commission (hereinafter referred to as "B.P.S.C." for short). After the results were announced since the petitioner was not one of the successful candidates, even though he had almost touched the rope, he decided to obtain xerox copy of the original answer-sheet from B.P.S.C. B.P.S.C. did oblige him. To the shock and horror when the petitioner went through the answer-sheet of History Paper-II, he discovered that



atleast in three answers, there has been over-writing on the marks, initially awarded to the petitioner. 26 marks had been reduced to 24 marks in question no. 1. Same is the position with regard to question no. 2 and then question no. 9. There are no changes or over-writing with regard to award of marks in the other answers given by the petitioner. The end result is that instead of 127 marks in History Paper-II, petitioner ends up with a total of 121 marks only. Since there was no initial or signature on the over-writing, a suspicion arose in the mind of the petitioner that this was deliberately done with the object of denying the petitioner his right for selection and appointment on a civil post, despite having adequate number of marks in his favour.

On the surface of the matter, argument of the petitioner did arouse a suspicion in the mind of the Court as well in the manner in which marks had been reduced in History Paper-II, of the petitioner, without anybody taking responsibility as to who reduced the original marks awarded to the petitioner, by over-writing. Obviously, absence of any initial or signature in the three answers legitimately created a doubt in the mind of petitioner, which was pointed out to the Court as well.

If the petitioner has 127 marks, as was

originally awarded, then he does get a right of consideration. Therefore, the writ has been pressed to make out a case of wrong doing by B.P.S.C.

In the counter affidavit filed on behalf of B.P.S.C., they have explained the position by denying that there was any wrong-doing or hanky-panky. The over-writing is in the handwriting of the Examiner. The marks were reduced by the Examiner. The Examiner was confronted with this position after showing answer-sheet of the petitioner and the person gave in writing before the Chairman of B.P.S.C. that it was a case of over-sight that initial against the over-writing was not put. The reduction of marks awarded to the petitioner in the three questions was done during the course of evaluation itself. The final tally of 121 marks is reflected in the award-list. There is no cutting or variations in the marks of the present petitioner along with the other candidates in the award list. After the evaluation was done by the said Examiner it has been countersigned by the Head Examiner. This is a clear indication that the Examiner wanted to give total 121 marks only to the petitioner and not 127 marks.

The original answer-sheet of the petitioner along with the letter of Examiner addressed to the

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Chairman has been produced in a sealed-cover along with the original tally of marks awarded to various candidates. If the answer-sheet is gone through, this Court has no hesitation in recording its opinion that the change in marks by over-writing has been done in the same pen as well as in the same hand-writing as that of the person, who had evaluated the answer-sheet of History Part-II. It does not seem to be a case of any interpolation or mischief, which was sought to be urged at the bar on behalf of the petitioner. However, it does leave scope for suspicion and it surely provides scope for rumours and create doubts in the manner such answer-sheet has been marked or evaluated by the Examiner, in question. In normal course of things if the Examiner wanted to reduce the marks so awarded, the original marks should have been scored out, and initial or signature should have been given thereto and a fresh marks, which was in the opinion of the Examiner deserved by the petitioner in the concerned question, should have been recorded separately again with a signature, if not an initial. If it was done, this kind of argument would not have been made nor allegations against B.P.S.C. would have been made.

In totality, therefore, the Court is satisfied that

it is not a case of any wrong-doing deliberately to deny the petitioner benefit of selection in the 53rd–55th Common Combined Competitive Examination, held by the B.P.S.C.

However, before parting, the Court will surely like to express its opinion that something more is required to be done by the Chairman of B.P.S.C. to see that this kind of minor mistakes are not committed by Examiners in conduct of examination, which may beget a bad name to the organization, which anyway did not have a glorious past and was in all kinds of controversies, earlier.

The affidavit as directed by the Chairman was filed and he too has solemnly stated the facts that have been taken note of in the earlier part of the Order.

The original papers are returned to Mr. Lalit Kishore, learned Sr. Counsel, representing B.P.S.C.

The writ application, however, is dismissed, because no case of interference is made out in the given facts and controversies.

(Ajay Kumar Tripathi, J.)

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