

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE G. SHYAM PRASAD

W.P.No.27516 of 2015

Between:

1. Jannu Kiran Kumar and another

.....Petitioners

And

1. The State of Telangana, rep. by its Principal Secretary, Medical & Health Department, Telangana Secretariat, Hyderabad -500 022, and others.

..... Respondents



HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
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W.P.No.27516 of 2015

ORDER: (per V. Ramasubramanian, J.)

The petitioners have come up with the present writ petition challenging an order of the A.P. Administrative Tribunal dismissing their application seeking a declaration that they have qualified in the written examination so as to entitle them to be called for interview for appointment to the post of Drug Inspectors.

2. Heard Mr. G. Vidya Sagar, learned Senior Counsel appearing for the petitioners, learned Government Pleader for Medical and Health (Telangana) and Mr. C. Srinivasa Baba, learned counsel appearing for the Public Service Commission.

3. By a notification No.15/2008, dated 22.07.2008, the A.P. Public Service Commission invited applications for direct recruitment to 50 posts of Drug Inspectors. The petitioners applied. A written examination was conducted on 05.12.2010, the results of which were published on 26.03.2011.

4. Finding that their names did not figure in the list of candidates short listed for interview, the petitioners applied for Xerox copies of their OMR answer sheets. The Service Commission refused to furnish the answer sheets on the ground that the process of recruitment was not completed at that time. However, the 1st petitioner was declared to have secured 57 out of 450 marks in the written examination and the

2nd petitioner was declared to have been secured 156 marks out of 450 marks. The 1st petitioner belongs to Scheduled Caste and the 2nd petitioner belongs to BC-B category. The cut off marks for the Scheduled Caste was 230 and the cut off marks for BC-B was 245. Therefore, the Service Commission took a stand that they were not called for interview.

5. Before the Tribunal, the Service Commission took a stand that the OMR sheets of the petitioners were not evaluated since the petitioners have wrongly bubbled their registration numbers on the OMR sheets and that therefore, the machine which evaluates the OMR sheets rejected those OMR sheets for evaluation.

6. When the Tribunal directed the production of the OMR sheets, the Service Commission filed an affidavit to the effect that the OMR sheets of the petitioners got mixed up with several hundreds of OMR sheets and they could not be traced. But the Service Commission produced a list prepared in December, 2010 showing the list of rejected candidates, as proof of their contention that the OMR answer sheets of the petitioners were not evaluated due to the mistake committed by them.

7. Accepting the stand taken by the Service Commission, the Tribunal dismissed the Original Application forcing the petitioners to come up with the above writ petition.

8. From the pleadings and rival contentions of the learned counsel, two admitted facts emerge, namely, (a) that the OMR answer sheets of the petitioners herein were not evaluated; and (b) that the OMR answer sheets of the petitioners are not traceable any more. Therefore, the issue now boils down only to one question, viz., whether the failure of

the Service Commission to evaluate the answer sheets of the petitioners, is wrong or not.

9. If non-evaluation of the answer sheets of the petitioners is due to any mistake on the part of the petitioners, then the petitioners cannot claim any relief. If the non-evaluation is due to any mistake on the part of the Service Commission, then the petitioners are entitled to have their answer sheets evaluated.

10. But today the problem is compounded by the fact that the OMR sheets are not available for evaluation. Therefore, the question as to who was at fault and the possibility of evaluating them now can be decided only on the basis of any circumstantial evidence.

11. The Service Commission produced a contemporaneous record in the form of an invalidation list generated in December, 2010, duly signed by the officers of the Public Service Commission. Along with the names and registration numbers of many other candidates whose answer sheets could not be evaluated due to the mistakes committed by the candidates, the registration numbers of the petitioners are also found. There is no reason to suspect such a contemporaneous record and the stand taken by the Public Service Commission. Therefore, the Tribunal was right in taking the only view that is possible in cases of this nature.

12. A little understanding of the manner in which multiple choice questions are answered in OMR sheets and the manner in which such OMR sheets are mechanically valued, (mechanically in the literal sense and not in the figurative sense) is necessary before we wind up. A software is prepared for the evaluation of OMR sheets and the key

answers prepared on OMR sheet are first fed into the system. Thereafter, all OMR sheets of all candidates are sent into the system. The system captures the images from the OMR sheets and stores them. Thereafter, it matches the options shaded or bubbled in every OMR sheet with the key answers and produces the results. Most of the recruiting agencies outsource the task of printing OMR sheets and getting the answer sheets valued. The moment the task is over, the agency's contract is terminated and the system brought by the agency for the purpose is cleaned up.

13. Therefore, today, it is not possible to direct evaluation of those answer sheets, if the system has already rejected for evaluation on the ground that there were mistakes on the part of the candidates while filling up their registration numbers in the OMR sheet.

14. We are not for a minute suggesting that the failure on the part of the Public Service Commission to preserve the OMR sheets can be condoned or whitewashed. In a competitive examination of this nature, the Public Service Commission should have been more careful. The failure of the Public Service Commission to preserve the OMR sheets of the writ petitioners is liable to be condemned. But it does not mean that any relief, other than a monetary relief can be granted to the petitioners. Since the damage suffered in cases of this nature, by candidates appearing in a competitive examination for recruitment to Government service, cannot be measured with any precision, we think it appropriate to direct the Service Commission to pay a sum of Rs.20,000/- to each of the petitioners, towards compensation for the failure of the Service Commission to preserve the answer papers of the petitioners.

15. Accordingly the writ petition is disposed of modifying the order of the Administrative Tribunal and directing the Public Service Commission to pay a sum of Rs.20,000/- to each of the petitioners, towards compensation for the failure of the Service Commission to preserve the answer papers of the petitioners. The amounts shall be paid within 4 weeks. In all other aspects the order of the Tribunal stands confirmed.

16. As a sequel, pending miscellaneous petitions, if any, in this writ petition shall stand closed. There shall be no order as to costs.

JUSTICE V. RAMASUBRAMANIAN

JUSTICE G. SHYAM PRASAD

Date: 30.11.2016

Js



THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No.27516 of 2015



Date: 30.11.2016

Js.