

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1678 of 2013

IN

Civil Writ Jurisdiction Case No. 16640 of 2004

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Dinesh S/O Late Ramagya Singh R/O Village- Ramban, P.O.- Phulkahan, P.S.-
Shyampur Bhatahan, District- Sheohar

.... Appellant/s

Versus

1. The Bihar Public Service Commission, Through Its Chairman, Bailey Road, Patna
2. The Secretary, Bihar Public Service Commission, Bailey Road, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Manoj Kumar Manoj, Advocate

For the Respondent/s : Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 27-03-2017

Seeking exception to an order dated 31.8.2010, passed by the learned Writ Court in C.W.J.C. No.16640 of 2004, this appeal has been filed under Clause 10 of the Letters Patent.

Petitioner was a candidate who had appeared in the 1st Regional Services Examination conducted by the Bihar Public Service Commission between 8.4.2002 to 20th of April, 2002 and in the subjects of Mathematics, General Knowledge and Hindi, petitioner is said to have answered various questions which were put to him and the entire system of examination was based on objective type questions. Petitioner obtained 207 marks after evaluation and



contending that he should have received 244 marks and there is error in evaluation of his answer-sheet, the writ petition was filed in the year 2004 and, by the impugned order dated 31.8.2010, the writ Court has dismissed the petition by holding that the objective type questions had been evaluated by optical reading through a computer and there is no error in the same. However, learned counsel for the petitioner during the course of hearing today, tried to point out that when the entire evaluation is done erroneously, based on wrong answers fed, the High Court should interfere into the matter, cancel the examination or direct for correction of the answer book of the petitioner and provide him proper marks after such re-evaluation. The judgments relied upon are **Rajesh Kumar & Ors. vs. State of Bihar & Ors.**, reported in (2013) 4 SCC 690 and **Maharashtra State Board of Secondary And Higher Secondary Education & Anr. Vs. Paritosh Bhupeshkumar Sheth**, reported in (1984) 4 SCC 27.

Having heard learned counsel for the parties, we find that the petitioner claims that instead of getting 207 marks, he should obtain 244 marks. It is his contention that various questions in the subjects in question, primarily of Hindi, General Knowledge and Mathematics, have not been evaluated properly. In the record of the writ petition, we find that in the pleadings made by the



petitioner, except for contending that his answer book has not been evaluated properly and that he should have received 244 marks, no cogent *prima facie* evidence or material is produced to indicate as to which are the questions answered which have been wrongly evaluated as is the statement of the learned counsel for the petitioner before us today. Though learned counsel tried to indicate that the question papers and the model answer books are available and the same can be verified, however, there is no foundation for this submission.

We have gone through the pleading of the writ petition, C.W.J.C.No.16640 of 2004, and we find that except for making vague and unspecified allegation that his answer book has not been evaluated properly and he has been given less marks, nothing is mentioned in the pleading with regard to any particular question and answer thereto to show as to what was the error apparent on the face of the record in evaluating the answer book. It seems that the petitioner wants a roving enquiry to be conducted by getting his answer book re-evaluated and thereafter declare him fit and grant him appointment. This cannot be permitted.

If it was the case of the petitioner that there is error or material irregularity in evaluating his answer book resulting in awarding less marks to him, it was incumbent upon the petitioner to



make specific pleading with reference to specific question, its answer and the material on the basis of which the petitioner makes an assertion that there is error in evaluating his answer.

In the absence of there being specific material in this regard, roving enquiry of the nature claimed by the petitioner by getting the answer book re-evaluated cannot be permitted after 15 years of the examination being over in the year 2002.

Accordingly, in the facts and circumstances of the case, we find no error in the order passed by the learned Writ Court warranting re-consideration. The appeal is dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

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