

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.511 of 2016

In
Civil Writ Jurisdiction Case No. 16716 of 2013

=====

Kamlesh Mohan Jha, son of Sri Krishna Mohan Jha, resident of village F- 9 (Old Vidyut Board Colony) Shastri Nagar, Patna - 23, Police Station - Shastri Nagar, District - Patna, at present posted as Accountant Assistant Electric Supply Circle, Patna.

.... Petitioner

Versus

1. The State of Bihar.
2. Sri Pratyay Amrit, the Secretary, Department of Energy, Government of Bihar, Patna.
3. Sri Pratyay Amrit, the Bihar State Power (Holding) Co. Ltd. through its Chairman cum Managing Director, Patna.
4. Sri Rajiv Ranjan Sinha, the Secretary, Bihar State Power (Holding) Company Ltd., Patna.
5. Sri D.K. Agrawal, the Deputy General Manager (H.R.) Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Bailey Road, Patna.

.... Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Verma, Sr. Advocate
Mr. Jagdish Prasad Singh, Advocate

For the Respondent/s : Mr. Sunil Kr. Mandal, SC-3
Mr. Arjun Prasad, AC to SC-3

For the Company : Mr. Anand Kumar Ojha, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

3 27-07-2017

Heard learned counsel for the parties.

The instant contempt application has been filed for willful disobedience of order, dated 02.09.2014, passed in C.W.J.C. No. 16716 of 2016.

The petitioner was appointed as Junior Account Clerk in 2000 and promoted to the post of Accounts Assistant in the year 2007. He appeared in Lekha Pravin Pariksha (LPP) II in the year 2011 along with 29 other applicants and only 11 were



declared pass vide office order, as contained in Memo No. 1969, dated 20.05.2000. The petitioner's name did not figure amongst the successful candidates. The name of Sujit Kumar, Dilip Kumar Singh and one Mritunjay Kumar Singh also did not appear in the list of successful candidates.

The contention of the petitioner before the writ court was that the paper of three candidates, namely, Sujit Kumar, Dilip Kumar Singh and one Mritunjay Kumar Singh were re-checked/re-evaluated and revised marks were given. In support of his submission, the petitioner has referred to notings of the committee comprising of Administrative Officer, Under Secretary and Electric Superintending Engineer, dated 09.10.2012, contained in Annexure-5. With reference to the case of Dilip Kumar Singh, the petitioner emphasized that the paper was re-checked / re-evaluated and 10 marks were given in place of zero marks awarded earlier. There cannot be any dispute with the issue that re-evaluation generally would not be permissible in absence of rules, but where in the same examination, if the departure is made in case of some candidates in the same examination, the same yardstick should be adopted in case of other candidates as well.

In the instant case, the petitioner by referring to the



answer-sheet, has submitted that for the same mathematical answer, some candidates have been given higher marks, whereas he has been given lower marks.

The case of the respondents is incorporated in paras. 5 and 6 of the order of this Court, which are quoted herein below for easy reference:

“5. The petitioner while referring to Annexure 1 states that in his case, only re-totalling was done, whereas in case of Dilip Kumar Singh (Roll No.7), in fact, re-evaluation of the answer sheet was done on account of which his marks have been advanced from 32 to 48. Similarly, marks of one Mr.Sujit Kumar had also been raised on re-evaluation/re-totalling of answer sheet to 40 from 30. In his reply affidavit to the counter affidavit, the petitioner has brought on record answer copies of Dilip Kumar Singh as annexures 5 and 6. Annexure 5 is a copy of answer sheet prior to re-evaluation, whereas Annexure 6 is Xerox copy of same copy after alleged re-evaluation. The petitioner wants to show that on re-evaluation (Annexure 6) 10 marks were given for a question, for which no marks was given earlier. In support of his submission petitioner has drawn attention of court to page 9 of Annexure 5. It would appear that for one answer for which no marks was



allotted to Dilip Kumar Singh, subsequently 10 marks have been allotted.

6. Mr. Anand Kumar Ojha, learned counsel for the Company refers to paragraph 8 of the counter affidavit and submits that a committee for review of disputed marks allocated in the answer book of Sri Sujit Kumar was constituted vide Office order no. 1633 dated 5.6.2013 and on the report of the Committee three candidates, namely, Sri Sujit Kumar, Sri Mritunjay Kumar Singh and Sri Dilip Kumar Singh were declared pass on grounds mentioned therein. In respect of Sujit Kumar, it is stated that though the examiner had awarded 8 marks (6+2) for one question in Paper-I, but only 6 marks was counted initially showing total marks as 48. After re-totalling, he got 50 marks. In case of Dilip Kumar Singh, by mistake, the examiner had inadvertently put 0 (zero) marks for one of the answers, which was found to be correct by the Committee and thus he was awarded 10 marks for that particular correct answer. In case of Mritunjay Kumar Singh, he was declared pass as after re-totaling, the marks rose to 41 in place of 39. He thus submits that in the facts and circumstances, petitioner's case cannot be equated with their case. Mr. Ojha submits that re-evaluation of answer sheet would mean revisiting the entire



answers in respect of their respective marks allotted on the answer sheet.”

I find from notings in file dated 09.10.2012 (Annexure-5) that the papers of candidates were rechecked and marks of one of the candidates was revised from 0 to 10 (zero to ten) marks. Petitioner has also shown that for same answer he has given lesser marks, whereas the other candidate has been given higher marks.

Counsel for the opposite parties argued that the petitioner did not incorporate all steps in his answer as such got less marks for the answer.

This Court would not examine these matters in contempt. The opposite parties are given one last opportunity to comply with the writ order within six weeks from today.

This application stands disposed of.

(Samarendra Pratap Singh, J.)

Uday/-

U			
---	--	--	--

