

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.639 of 2016

Arising out of

C.W.J.C.No.12176 of 2014

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Shahnawaz Anwer Son of Md. Mustafa Resident of Mohalla- Khatari, Police Station- Ara (Town), District- Bhojpur at Ara

.... Appellant/s

Versus

1. The State of Bihar
2. The Bihar Staff Selection Commission, Patna through its Chairman.
3. The Chairman, Bihar Staff Selection Commission, Bihar, Patna
4. The Secretary, Bihar Staff Selection Commission, Bihar, Patna
5. The Joint Secretary, Bihar Staff Selection Commission, Bihar, Patna
6. The Director, Bihar Tourism Department, Old Secretariat, Bihar, Patna
7. The Principal Secretary, Bihar Tourism Department, Old Secretariat, Patna
8. The Principal Secretary, Department of Vigilance, 4th Floor, Suchna Bhawan, New Secretariat, Patna
9. Sri Kumar Madan Son of Dashrath Yadav
10. Sri Pradip kumar Yadav Son of Indradev Yadav
11. Sir Sudhir Kumar Son of Brij Nandan Pandit
12. Sri Rajesh Kumar Dinkar Son of Bihari Ravi das
13. Sri Birendra Kumar Singh Son of Anirudh Singh
14. Sri Shohail Pervez son of Noor Mohammad
15. Sri Anil Kumar Son of Anandi Pd. Yadav
16. Sri Shashi Prakash Gupta Son of Radhey Prasad
17. Sri Surya Ketu Das Son of Jantari Das null
18. Sri Manmohan Kumar Sl. No. 9 to 18 are 'Swagatak' (Receptionist) C/o The Director, Department of Tourism Old Secretariat, Bihar, Patna

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Anamul Haque, Advocate
For the State	:	Mr. Vikash Kumar, SC-11
		Mr. Sriram Krishna AC to SC-11
For B.S.S.C.		Mr. K.K. Upadhyay, Advocate
For Vigilance		Mr. Rama Kant Sharma, Sr. Advocate
		Mr. Rakesh Kumar Sharma, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 27-01-2017

The challenge in the present Letters Patent Appeal is to



an order passed by the learned Single Bench on 18th of March, 2016 in C.W.J.C. No. 12176 of 2014 whereby, a writ application challenging his result was dismissed. The grievance is that there is wrong calculation of marks and if the calculation is corrected, the appellant will be a successful candidate.

2. The relevant facts are that, initially, for 100 O.M.R. questions 100 marks were assigned that is one question one mark. But later 8 questions were declared to be wrong, therefore, marking was done on the basis of 92 questions for 100 marks, i.e. instead of one mark for each question, 1.08 marks were given. The appellant has answered 59 correct questions, therefore, the marks of the correct answers comes to 63.72. The other condition was that for each incorrect answer, there would be deduction of half mark. The appellant had answered 28 questions incorrectly. Thus, total marks deducted were 14, meaning thereby, he gets $63.72 - 14 = 49.72$. The appellant was given 15 marks in the viva voce. Thus, he got $49.72 + 15 = 64.72$ marks.

3. The stand of the Staff Selection Commission is that the calculation was made on the basis of 1.08 marks whereas the appellant is calculating the marks on the basis of 1.087 which is not the norm followed by the Commission. It is policy matter as to whether the marks should be calculated upto two decimal point or



three. Generally it two decimals points. Therefore, the action of the Commission to calculate the marks of all the candidates on the basis of two decimals cannot be interfered with in the case of the appellant alone.

4. Since the very calculation by the Appellant of marks is incorrect, therefore, the marks granted by the Staff Selection Commission cannot be said to be incorrect. Thus, we do not find any error in the judgment of the learned Single Bench which may warrant interference in the present Letters Patent Appeal.

5. Consequently, we do not find any merit in the present Letters Patent Appeal. The same is dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	03.02.2017
Transmission Date	N/A

